

August 4, 2008

Patricia A. Harris
301 215 6613
patricia.harris@hklaw.com

VIA ELECTRONIC AND FIRST CLASS MAIL

The Honorable Susan R. Hoffmann, Mayor
and Members of the City Council
City of Rockville
111 Maryland Avenue
Rockville, Maryland 20850

Re: Pike Center – 12101 Rockville Pike

Dear Mayor Hoffmann and Members of the Rockville City Council:

JBG/Rosenfeld Retail Properties ("JBGR") is the owner of the 6.8 acre Pike Shopping Center, located on the east side of Rockville Pike (the "Property"). The Property is contiguous to the southern boundary of the City of Rockville (the "City") and is within the Maximum Expansion Limits ("MEL") of the City. It is our understanding that the Sectional Map Amendment that will rezone the City to implement the RORZOR recommendations will identify the potential future zoning of sites within the MEL. The purpose of this letter is to request that the City recognize that the MXTD Zone would be the most appropriate zone for the Property if the Property is eventually annexed into the City.

Rationale for the Request

The MXTD Zone, as set forth in Section 25.13.02 of the Recommended Draft of the Zoning Ordinance, dated May 21, 2008, provides for high density development or retail, office and residential uses in areas near Metro Stations. The Property is an excellent candidate for designation as an appropriate property for future rezoning to this Zone if the Property is annexed into the City.

The Property is close proximity (1,600 feet) to both the Twinbrook Metro Station and to properties on the east side of Rockville Pike within the City limits that are currently recommended on the draft zoning map as appropriate for the MXTD Zone. The Property shares the characteristics of the nearby properties proposed to be rezoned to the MXTD Zone because it is: (1) in close proximity to the Twinbrook Metro Station; (2) located along Rockville Pike; (3) located along Chapman Avenue that is proposed to be extended and that will become a major improved pedestrian walkway to the Twinbrook Metro Station; and (4) an excellent candidate for redevelopment to a high density mixed-

The Honorable Susan R. Hoffmann
August 4, 2008
Page 2

use development because it currently is an outdated, underutilized Shopping Center in an area that is ripe for redevelopment because it is near an intense, high-rise development to its south. The City's acknowledgement now that the Property is appropriate for inclusion in the MXTD Zone in the future, if annexation into the City of Rockville is pursued, will help to ensure that a significant and well-located Property will be planned and zoned to reflect its full potential to redevelop in accordance with the principles of both smart growth and urban design.

For these reasons, we request that the Property be depicted in the MXTD Zone on the map that will accompany the Sectional Map Amendment implementing the RORZOR recommendations. Thank you for your consideration of this request.

Very truly yours,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read 'Patricia A. Harris', written over a horizontal line.

Patricia A. Harris

cc: Mr. Rod Lawrence
Ms. Susan Swift
Mr. Jim Wasilak

5498480_v1

August 6, 2008

Patricia A. Harris
301 215 6613
patricia.harris@hklaw.com

VIA ELECTRONIC AND FIRST CLASS MAIL

The Honorable Susan R. Hoffmann, Mayor
and Members of the City Council
City of Rockville
111 Maryland Avenue
Rockville, Maryland 20850

Routed To:

☒ Council
☐ City Clerk
☒ City Manager

☒ City Attorney
☐ Council Support Specialist
☒ Other

Susan Swift
Jim Waselake
Dean Mellander

Re: Rockville Zoning Ordinance Revision ("RORZOR")

Dear Mayor Hoffmann and Members of the Rockville City Council:

On behalf of The JBG Companies, we want to thank you for affording us the opportunity to actively participate in the RORZOR process, and to present development scenarios to the Mayor and Council on July 30, 2008. Evaluating potential "real life" applications of the Zoning Ordinance draft has been helpful to us in analyzing the proposed Ordinance, and we hope it aided your review as well. In this vein, while we commend the positive revisions to the draft ordinance made to date by Staff, the Planning Commission, and the Mayor and Council, we would like to take this opportunity to highlight a few remaining provisions which we believe would benefit from further review and consideration by the Mayor and Council:

- **Public Use Space:** We would like more flexibility in the ordinance to meet public use space requirements, specifically allowing the use of residential courtyard space. Though these spaces may only be accessible to the residents and guests of the building, they provide benefits to the public at large in terms of architecture, light and air corridors, aesthetic enhancements, and permeable surface/green roof areas.
- **Ground Floor, Floor to Ceiling Heights (Special Design Regulations – Section 25.13.07):** The provision of a 15 foot ground floor is overly specific. While this is generally a good rule of thumb, we have found attractive, inviting retail uses or other first floor uses may be accommodated in spaces with variable ceiling heights, and think this requirement would be best met through design guidelines.

The Honorable Susan R. Hoffmann
August 6, 2008
Page 2

- Front Façade Building Height: Section 25.13.05b.2. provides that front building facades in the MXTD Zone “should have” a range of heights between 45 to 65 feet. While this language is more relaxed than the earlier version which required a specific height, we believe that the current language does not provide enough flexibility and is likely to be interpreted as a mandate for a specific height. As was demonstrated during the 1800 Rockville Pike test case, varying heights along the street edge not only provide for enhanced visual interest, but can also often be necessary to meet light and air requirements in complex mixed-use projects. Projects in the MXTD will in most cases be subject to both Mayor and Council and Planning Commission review and approval and thus this design element may be determined on a case by case basis. As a result, we would recommend that the front building façade height provision be eliminated from the Zoning Ordinance and instead be provided for in design guidelines.
- Design Guidelines: Many of the design guidelines set forth in Section 25.13.06 are well intentioned and may yield positive results in certain applications. However, we remain concerned about the subjective nature of the guidelines and encourage the Mayor and Council to provide for flexibility in their application.

We appreciate the opportunity to share these concerns with you. We look forward to the Mayor and Council’s consideration of these items.

Very truly yours,

HOLLAND & KNIGHT LLP



Patricia A. Harris

cc: Ms. Susan Swift
Mr. James Wasilak
Mr. Deane Mellander
Mr. Greg Trimmer
Mr. Tony Greenberg

Exhibit No. 89
Zoning Ordinance Rewrite
PH Dates: 6/16 & 6/30/08



"jrbarron95"
<jrbarron95@comcast.net>

08/24/2008 09:51 PM

To <mayorcouncil@rockvillemd.gov>

cc "JoAnne Barron" <jrbarron95@comcast.net>, "Bruce Blumberg" <bblumberg@abarisrealty.com>, "Betty Figure" <bf15154@comcast.net>, "Butler, Lillian"

bcc

Subject Rezoning Woodley Gardens

Dear Mayor and City Council:

I am absolutely opposed to the effort that became to be known as the Rockville Zoning Ordinance Revision Committee (RORZOR.)

The primary changes for the Woodley Gardens Shopping Center are as follows:

- a.) now zoned as "C-1" 30 feet/two story no residential.
- b.) will be zoned MXNC "Mixed Use Neighborhood Scale," which allows 45 feet/four story with residential. However, the new zoning may embolden Woodley Gardens Shopping Center current or future owners to maximize their investment by increasing height and density once RORZOR passes.

The last thing our community wants to see a four story commercial/residential structure juxtapositioned in the middle of our homes and parks, more traffic, less parking and failing local businesses, due to higher rent.

I am opposed:

- a. to any re-zoning of the Woodley Gardens to MXNC zoning (45 foot/4 story height),
- b. opposed to the MXNC residential component (condos/apartments),

I advocate to maintain the current C-1 zoning (30 foot, 2 story non-residential); advocate to re-open the RORZOR public record and advocate for one last public hearing to object to these changes since there was no information sent to me as a local citizen involved in these discussions.

Am forwarding this message to those interested citizens in my neighborhood ,who also may want to voice their opposition at the next meeting, September 8th at 7:00 PM to testify at City Hall. I encourage condo owners and members of the board to testify. If we are to preserve our neighborhood, we must take action now.

Thank you for consideration of this request. Please add these remarks to the minutes of the September 8th meeting, in the event that I may not be able to attend.

JoAnne Riley Barron
765 Azalea Drive
Rockville, MD 20850
301-279-7604



"lillian butler"
<lily3bgood@gmail.com>
08/24/2008 10:15 PM

To mayorcouncil@rockvillemd.gov
cc bblumberg@abarisrealty.com, jrbarron95
<jrbarron95@comcast.net>, "Lily Butler"
<lbutler2005@comcast.net>
bcc
Subject Rezoning Woodley Gardens

Dear Mayor and City Council:

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The primary changes for the Woodley Gardens Shopping Center are as follows:

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Am forwarding this message to those interested citizens in my neighborhood ,who also may want to voice their opposition at the next meeting, September 8th at 7:00 PM to testify at City Hall. I encourage condo owners and members of the board to testify. If we are to preserve our neighborhood, we must take action now.

Thank you for consideration of this request. Please add these remarks to the minutes of the September 8th meeting, in the event that I may not be able to attend.

Lillian M. Butler
771 Azalea Drive
Rockville, MD 20850
301-762-0624

SHULMAN ROGERS GANDAL PORTY & ECKER, P.A.

301-230-5224
nregelin@srgpe.com

Writer's Direct Dial Number:

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Glenn W.D. Golding +
Matthew M. Moore +
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Aaron A. Ghais
Eric J. von Vorys
Hong Suk "Paul" Chung +
Deborah A. Klis
Heather L. Howard +
Kristin E. Draper +
Melissa G. Bernstein +
John D. Sadler
Marc E. Pasekoff
Alexis H. Peters +

Exhibit No. 90
Zoning Ordinance Rewrite
PH Dates: 6/16 & 6/30/08

William B. Schroeder +
Lawrence M. Kramer
Alexander C. Vincent +
Stacy L. Schwabert
Courtney R. Snyder
Michelle Hunter Green +
Jessie O. Hepburn +
Mark R. Mann
Max I. Masmer +
Alan I. Sutton
Elizabeth T. Passyn
Rachel E. Solomon +
Reza Golzesorkhi +
Edward P. Henneberry +
Salmona L. Watts +

Ira E. Hoffman +
Special Counsel
Philip R. Hochberg +
Retired
Karl L. Ecker

Maryland and D.C. except as noted:
+ Virginia also * D.C. only
• Maryland only ■ VA only
† MD and VA only
▲ MD and D.C. only

AttachA

August 25, 2008

The Honorable Susan Hoffmann
Council of Rockville
111 Maryland Avenue
Rockville, Maryland 20852

Re: Burgundy Park Shopping Center

Dear Mayor and Members of the Council:

Routed To:

☒ Council

☐ City Clerk

☒ City Manager

☐ City Attorney

☐ Council Support Specialist

☒ Other Susan Swift

Jim Wasilak

Dean Mellander

This Firm represents the owner of the Burgundy Park Shopping Center. The purpose of this letter is to correct information provided by staff regarding the number and type of the alcoholic beverages licenses held by business owners in Burgundy Park Shopping Center. The Council discussed that **Jonathan's** restaurant had on-premises sales (Class B Restaurant license), and staff advised there were no other license holders that would be affected by the zoning changes being discussed that would prohibit sales for off-premises consumption.

Tia Ochi, a small independent family owned restaurant in Burgundy Park Shopping Center, holds a Class D Beer & Light Wine license which by state law authorizes its holder to sell beer and light wines at retail for consumption on the premises or elsewhere (off-premises). Tia Ochi has been serving the neighborhood since 2006.

Rockville residents and the Council have repeatedly demanded that provision be made in every master plan to preserve and encourage the small independent businesses in Rockville that distinguish the City from the greater region. Neighborhood centers like Burgundy Park have been fostering small locally owned businesses for decades. **Tia Ochi's** existing small business' livelihood which depends on both on-premises and carry-out food and beverage sales should not be ignored or discounted in a broad zoning action. Rendering an existing use non-conforming provides no comfort to the small business owner. Please draft appropriate zoning to actually preserve and encourage Rockville's small business community and its neighborhood centers.

The owner of the Burgundy Park Shopping Center has never sought any change to its zoning category and objects to any change which would hurt any one of its family of small independent business owners. We have faith that this Council can craft zoning provisions that preserve, encourage, and protect **Tia Ochi** and other small businesses at Burgundy Park Shopping Center

Very truly yours,
SHULMAN, ROGERS, GANDAL,
PORTY & ECKER, P.A.

By

Nancy P. Regelin

A-7

Exhibit No. 91
Zoning Ordinance Rewrite
PH Dates: 6/16 & 6/30/08



"Jim Reschovsky"
<jreschovsky@verizon.net
>

08/27/2008 11:55 PM

To <mayorcouncil@rockville.net>

cc

bcc

Subject WGCA position on zoning for the Woodley Gardens
Shopping Center

Dear Mayor Hoffmann and members of the Council,

It has come to my attention that there might be some confusion as to the position of the Woodley Gardens Civic Association regarding the zoning of the Woodley Gardens Shopping Center so let me reiterate our position, as stated in my earlier testimony to you.

The Association is opposed to zoning the shopping center MXNC, the zone it was assigned in the draft ordinance forwarded to you from the Planning Commission. This zone would significantly increase the possible density and height of buildings on the site as compared to current zoning, in a manner that we feel is inappropriate given the small size of the property and proximity of residential properties. Moreover, we are concerned that a larger scale development of the site would jeopardize the ability of locally owned, non-chain businesses to serve our neighborhood.

The Association proposes instead that the site be zoned MXC. This classification preserves the current building height and set back restrictions. We recognize that MXC allows residential as well as commercial and office uses on the site, while the current commercial zone does not allow residential uses. We don't judge that to be a major issue for our community. I might note, however, that the zoning ordinance presented to the public did not present the possibility of retaining the commercial zone.

Should the Mayor and Council reintroduce a commercial zone back into the ordinance, our preference between MXC and the new commercial zone would of course depend on the nature of permitted uses and other restrictions under the new commercial zone. One issue that has come up in your discussions concerns the ability to sell alcoholic beverages for off site consumption. While I am sure there would be some difference of opinion on this issue within Woodley Gardens, I was reminded that the people in our community did come out forcefully against such an activity when it was proposed by a store owner some years ago. I have no reason to believe that these preferences have changed.

Thanks very much,

Jim Reschovsky
President, Woodley Gardens Civic Association



Brenda Bean/RKV
09/02/2008 09:15 AM

To "Wicker, Ellen" <Ellen.Wicker@bcbsa.com>
cc bblumberg@abarisrealty.com,
mayorcouncil@rockvillemd.gov, Deane Mellander/RKV,
Susan Swift/RKV, Jim Wasilak/RKV,
bcc
Subject Re: Rezoning Woodley Gardens

Dear Ms. Wicker ~

I wanted to acknowledge receipt of your e-mail and to also thank you, on behalf of the Mayor and Council, for taking the time to write.

Brenda F. Bean
Deputy City Clerk
111 Maryland Avenue
Rockville, Maryland 20850
email: bbean@rockvillemd.gov
phone: (240) 314-8280
fax: (240) 314-8929

"Wicker, Ellen" <Ellen.Wicker@bcbsa.com>



"Wicker, Ellen"
<Ellen.Wicker@bcbsa.com>

09/02/2008 09:15 AM

To <mayorcouncil@rockvillemd.gov>
cc <bblumberg@abarisrealty.com>
Subject Rezoning Woodley Gardens

Dear Mayor and City Council:

I am absolutely opposed to the effort that became to be known as the Rockville Zoning Ordinance Revision Committee (RORZOR.)

The now zoned Woodley Gardens Shopping Center is "C-1" 30 feet/two story no residential and is proposed to be zoned as MXNC "Mixed Use Neighborhood Scale," which allows 45 feet/four story with residential. This new zoning may embolden Woodley Gardens Shopping Center's current or future owners to maximize their investment by increasing height and density once RORZOR passes.

The last thing our community wants to see a four story commercial/residential structure juxtapositioned in the middle of our homes and parks, more traffic, less parking and failing local businesses, due to higher rent.

I am opposed to:

1. any re-zoning of the Woodley Gardens to MXNC zoning (45 foot/4 story height), and
2. the MXNC residential component (condos/apartments).

I advocate to maintain the current C-1 zoning (30 foot, 2 story non-residential); to re-open the RORZOR public record, to advocate for one last public hearing to object to these changes since there was no information sent to me as a local citizen involved in these discussions.

Thank you for consideration of this request. Please add these remarks to the minutes of the September 8th meeting, in the event that I may not be able to attend.

Ellen Wicker
767 Azalea Drive
Rockville, MD 20850
301-309-0895

Statement of
Frank W. Connolly
617 Azalea Drive, Rockville, MD
to
Rockville Mayor and Council
September 8, 2008

Mayor Hoffmann and Members of the Council, my name is Frank Connolly. My wife Anne and I have been Rockville residents for the last 37 years. I want to thank you for allowing me to take a few minutes of your time this evening to express my views on the City's new zoning regulations.

To begin I would like to compliment you and the city staff for the extensive research and work that has gone into formulating these new zoning regulations. After 32 years it was time to update the codes and it took a major effort to complete the task.

My concern tonight is with one small piece of the staff recommendations you are about to adopt -- and it is my understanding that this particular item has not yet been finally resolved. My concern is with proposed classification of the Woodley Gardens Shopping Center as a Mixed-Use Neighborhood Commercial District (MXNC). That is a zone that allows for *low to moderate* density development of retail, service, office, and residential uses, and taller buildings than are currently allowed.

To put things in perspective let me explain that for the first 35 of our 37 years as Rockville citizens Anne and I lived on Pitt Court in the College Gardens neighborhood. As our home emptied of kids we started looking to *down size* our housing. We found a wonderful home at 617 Azalea Drive. It is near public transportation and city parks. It's a short walk to the Woodley Gardens Shopping Center which means without getting in our car: we can stroll to Carmen's for an ice cream, a trip that one can enjoy making frequently; we can literally run to Suburban Federal Bank; or take a slow, less enthusiastic walk to our dentist. There's even a choice of restaurants. We moved to Woodley Gardens to downsize our living quarters but without downsizing our quality of life. It is the amenities and friendly ambiance of our neighborhood that attracted us, it is a wonderful area in which to live, one that is enriched by the shopping center. Think of our neighborhood and its shopping center as a neighborhood that works.

As you review and finalize the various zoning categories across the City I ask you to keep the Woodley Gardens Shopping Center as close to its current zoning classification as possible. From my reading of the new regulations that would be classifying it as a Mixed-Use Commercial Zone (MXC) where *low density development* is allowed, rather than the MXNC classification proposed that would allow **moderate density development**.

In summary, congratulations on completing the revision of Rockville's zoning regulations, but please don't change in integral piece of a neighborhood that works. Classify Woodley Gardens Shopping Center as MXC.

Thank you.

September 8, 2008

Subject: Rezoning of Woodley Gardens along Nelson Street

Good evening Mayor Hoffmann and Members of the City Council.

My name is Maritsa George. I live in Woodley Gardens on Azalea Drive in Rockville.

I'm here this evening to express my opposition to the impending re-zoning of the Woodley Gardens Shopping Center on Nelson St.

In the twenty years I have lived in the Woodley Gardens neighborhood, I have seen a marked increase in the traffic and congestion on Nelson St. This has meant that at times it is very difficult for anyone to drive onto Nelson St from any of the 9 streets which must use Nelson to exit our neighborhood. The increase in traffic made it difficult for pedestrians too. Three years ago a pedestrian-activated flashing light had to be installed at the cross walk on Nelson and Azalea to stop traffic and allow pedestrians to cross.

Traffic and congestion on Nelson St have increased in part to the continuing expansion of Montgomery College whose enrollment currently stands at more than 15,000 students. Nelson St. is the main road leading from exit 6 on highway 270 to the College grounds.

In fact, traffic has increased not only on the streets of my immediate neighborhood, but on all the streets connecting the commercial areas on 355 to any of the exits onto 270 with Nelson St. serving as a major conduit.

As it stands now the Woodley Gardens Shopping Center is a perfect fit for our neighborhood and confirms the scale of our community with its small shops and service businesses. The two story building is in harmony with the size of the trees and houses nearby.

Any change in the rezoning of this pleasant area which would permit the construction of a larger building will adversely change the scale and intimacy of our park-like neighborhood into yet another anonymous strip mall and increase the traffic beyond the capacity of our already over-burdened street.

In reading the September issue of, 'Rockville Reports', I note that Mayor Hoffmann and many council members describe Rockville's neighborhoods as "unique" (Mayor Hoffmann) and "distinctly hometown" (Councilman Gajewski).

I urge the Mayor and City Council to maintain the Woodley Gardens Shopping Center as a C-1 zone only, so that the very qualities praised in 'Rockville Reposts' can be supported.

STATEMENT OF CHRISTOPHER HUNTON of 609 Azalea Dr., Rockville, MD 20850

My name is Christopher Hunton, and I have lived at 609 Azalea Drive in Rockville for more than 4 years. I am also the 2nd Vice President of the Board of Directors of the Woodley Gardens Cooperative.

Woodley Gardens is a wonderful place to live. It is an attractive and comfortable neighborhood, whose character is determined by three key factors: population density, the volume of traffic, and land use.

All three of these vital components would be altered to the detriment of the Woodley Gardens neighborhood if the zoning classification of the Woodley Gardens Shopping Center was changed to allow 4-story buildings with a mix of residential and commercial use.

Also, the Woodley Gardens Shopping Center is located directly across from playgrounds and sports fields, which are used by hundreds of children each month. The increased traffic concomitant with a change to the current zoning would present a significant threat to the safety of those children.

September 8, 2008

Rockville City Hall
111 Maryland Avenue
Rockville, MD 20850
Attn: Mayor and City Council

Exhibit No. 96 AttachA
Zoning Ordinance Rewrite
PH Dates: 6/16 & 6/30/08

Re: Opposition to Woodley Gardens Shopping Center Up-Zoning

Good evening, Mayor Hoffmann, City Councilmembers City Staff, ladies and gentlemen. I am Drew Powell. I reside at 1035 Carnation Drive in Woodley Gardens, Rockville.

Every attempt must be made by the City of Rockville to contact ALL stakeholders, concerning specific zoning proposals and changes. It is not enough to mention RORZOR or general city zoning code in "Rockville Reports," without notifying concerned citizens and business owners about *specific* zoning changes, which may impact their homes, businesses and quality of life.

In the case of the Woodley Gardens Shopping Center, business owners and nearby citizens residing in Regents Square and the Woodley Gardens Coop, were never informed by the City. There were no postcards mailed, no signs posted. No way for ordinary citizens to know about specific zoning changes. These citizens are very concerned about the lack of notification and the potentially negative impacts this up-zoning may bring.

As you know, in written testimony, oral testimony before this body and again in recent written testimony via email, Jim Reschovsky, President of Woodley Gardens Civic Association, pleaded with this council to consider MXC [or C zoning] as opposed to MXNC zoning regarding the Woodley Gardens Shopping Center.

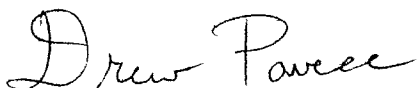
Businesses, such as Carmen's Italian Ice (represented tonight by its owner Jason Mandler), which just last Friday severed the City of Rockville well at "Volunteer Appreciation Day," may be negatively affected by this attempted up-zoning. He and business owners like those of Hard Times Café, Lezzet Turkish Market, Chicken Tonight and many others deserved to be notified. As Rockville's financial backbone, these businesses pay permitting fees and taxes as well create much needed local jobs. Notification is essential in that these business owners may see increased rents, decreased customer parking and disruption of business at a time when they can least afford it. We don't need any more stories like those of Roger Miller.

In last Wednesday's Gazette, Warren Crutchfield summed the current state of affairs best, when he said, "Time and time again, when residents unite and raise their valid concerns, they are dismissed, first by the Planning Commission and now by the mayor's comments."

According to the August 20th Gazette, "[Planning] Commissioner John Tyner expressed interest in getting the "non-squeaky-wheel public" involved in the process..." Well, the non-squeaky-wheel public" is here and *wants* to be involved. If timely notification is provided, given a seat at the table; they will gladly participate.

Real inclusion must be embraced by Rockville City government, instead of just going through the motions. Leave the zoning of the Woodley Gardens Shopping Center as it is. Help business owners protect their businesses. Help citizens preserve their quality of life. Thank you. ■

Most sincerely,



Drew Powell



Brenda Bean/RKV
09/10/2008 11:34 AM

To "lillian butler" <lily3bgood@gmail.com>
cc mayorcouncil@rockvillemd.gov, Susan Swift/RKV@RKV,
Deane Mellander/RKV@RKV, Jim Wasilak/RKV@RKV
bcc
Subject Re: Rezoning of Woodley

Dear Ms. Butler ~

On behalf of the Mayor and Council, thanks very much for your note. The draft Zoning Ordinance will again be the topic of discussion tomorrow evening at a Mayor and Council worksession should you wish to tune in. The meeting will begin at 6:30 and will be televised on TRC 11.

Thanks for your interest and your input.

Brenda F. Bean
Deputy City Clerk
111 Maryland Avenue
Rockville, Maryland 20850
email: bbean@rockvillemd.gov
phone: (240) 314-8280
fax: (240) 314-8929
"lillian butler" <lily3bgood@gmail.com>



"lillian butler"
<lily3bgood@gmail.com>
09/09/2008 02:21 PM

To mayorcouncil@rockvillemd.gov
cc
Subject Rezoning of Woodley

Dear Mayor and City Council:

I was unable to attend the Citizen Forum last night but I did watch the proceedings on the Rockville TV station today. Had I been there, I would have joined in protesting the rezoning of Woodley Gardens. You heard many of my neighbors speak to this issue and I am eager some feedback from you.

I sincerely hope that you have taken our objections to heart and have reconsidered this undesirable rezoning.

Yours truly,
Lily Butler
771 Azalea Dr.
Rockville, MD 20850

Brenda Bean/RKV
09/10/2008 11:57 AM

To Larry Gordon <lgordon@srgpe.com>
cc dmellander@rockvillemd.gov,
jwasilak@rockvillemd.gov,
mayorcouncil@rockvillemd.gov,
bcc
Subject Re: Most Recent Draft Zoning Ordinance Changes Made
Available September 5, 2008

Dear Larry ~

On behalf of the Mayor and Council, and other staff who received your note, thank you for writing.

Brenda F. Bean
Deputy City Clerk
111 Maryland Avenue
Rockville, Maryland 20850
email: bbean@rockvillemd.gov
phone: (240) 314-8280
fax: (240) 314-8929
Larry Gordon <lgordon@srgpe.com>



Larry Gordon
<lgordon@srgpe.com>
09/08/2008 12:55 PM

To <mayorcouncil@rockvillemd.gov>
cc <SBlock@rockvillemd.gov>, <sullery@rockvillemd.gov>,
<sswift@rockvillemd.gov>, <jwasilak@rockvillemd.gov>,
<dmellander@rockvillemd.gov>
Subject Most Recent Draft Zoning Ordinance Changes Made
Available September 5, 2008

Dear Mayor Hoffmann and Members of the City Council,

As you are aware, I have been an active participant in the City's new Zoning Ordinance process. I was able to obtain a copy of the latest Staff Draft Ordinance just this past Friday, September 5. The latest revisions are extensive and will take more time to fully digest. Accordingly, I respectfully request that, in light of these most recent changes, the record be opened to allow for additional public comment and that an additional Work Session (beyond the one scheduled for Thursday, September 11) be scheduled to enable you to consider and respond to comments received from the public.

As examples of my concern, I offer the following preliminary comments:

1. The "Conforming Structure" language now moved to Article 8 has been further revised. This was a major point of public discussion in the Ordinance and any changes require an opportunity for public comment.



Brenda Bean/RKV
09/10/2008 12:04 PM

To Peter Mork <peter.mork@gmail.com>
cc mayorcouncil@rockvillemd.gov, Susan Swift/RKV@RKV,
Jim Wasilak/RKV@RKV, Deane Mellander/RKV@RKV
bcc
Subject Re: Mixed use at Burgundy Estates

Dear Mr. Mork ~

On behalf of the Mayor & Council, I wish to acknowledge receipt of your email. Thank you for taking the time to write and for your interest.

Brenda F. Bean
Deputy City Clerk
111 Maryland Avenue
Rockville, Maryland 20850
email: bbean@rockvillemd.gov
phone: (240) 314-8280
fax: (240) 314-8929
Peter Mork <peter.mork@gmail.com>

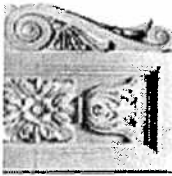


Peter Mork
<peter.mork@gmail.com>
09/06/2008 03:16 PM

To <mayorcouncil@rockvillemd.gov>
cc
Subject Mixed use at Burgundy Estates

I've now had a chance to review in much greater detail the zoning plans for the Burgundy Estates shopping center (thanks Ann Wallace!). It is my understanding that the allowed density at that location would not change (but new rules governing the number of parking spaces would be added). As a result, I rescind my previous objections with respect to mixed use at that site.

Thanks,
Peter Mork



Claire Funkhouser/RKV
09/10/2008 12:06 PM

To Brenda Bean/RKV@RKV
cc
bcc
Subject Fw: Rockville's Pending Zoning Ordinance

History:

☞ This message has been forwarded.

Claire F. Funkhouser, CMC
City Clerk/Treasurer
City of Rockville
City Clerk's Office
111 Maryland Avenue
Rockville, Maryland 20850
Phone: 240-314-8282
FAX: 240-314-8289

Email: cfunkhouser@rockvillemd.gov

----- Forwarded by Claire Funkhouser/RKV on 09/10/2008 12:14 PM -----



"Gerard Murphy"
<gm@wanada.org>

09/08/2008 04:14 PM

Please respond to
<gm@wanada.org>

To <mayorcouncil@rockvillemd.gov>
cc
Subject Rockville's Pending Zoning Ordinance

Dear Mayor Hoffman and Members of the City Council:

On behalf of the Washington Area New Automobile Dealers Association, I request that you defer action on the pending Zoning Ordinance review on issues which affect our members. As you are aware, the staff recommendations were posted on the city's website on Friday, Sept 5, 2008. The latest staff recommendations raise a variety of issues that we need time to clearly understand on behalf of our members.

We are particularly concerned about the "Conforming Structure" language. This issue was a major point of our previous letter and the new language will require reasonable time to review.

Also, new conditions have been recommended for Motor Vehicle Facility conditional use approval. Once again, automobile industry representatives require an opportunity to understand and to respond to such proposed changes.

The Ordinance does not yet address the previously raised possibility of increasing building height in the MXCD from 75 feet to up to 120 feet where approved by the mayor and Council in a final Sector, Master or Project Plan. The potential for additional building height would help encourage future mixed use redevelopment as part of an automobile dealership redevelopment proposal. The pending Rockville Pike Sector Plan does not include all properties in the City that are expected to be zoned MXCD. Accordingly, the Rockville Pike Plan and any associated Zoning Ordinance changes

might not address the totality of the MXCD height issue.

Thank you for your consideration.

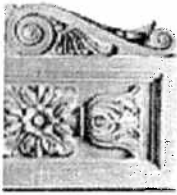
Very truly yours,

Gerard N. Murphy
President & CEO

Washington Area New Automobile Dealers Association
5301 Wisconsin Avenue, N.W., Suite 210
Washington, DC 20015
Tel. 202-237-7200 x15
Fax. 202-237-9090
Email. gm@wanada.org

Gerard N. Murphy, CAE
President & CEO
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Claire Funkhouser/RKV
09/10/2008 12:07 PM

To Brenda Bean/RKV@RKV
cc
bcc

Subject Fw: September 2008 Revisions to Zoning Ordinance -
Time for public review

History: This message has been forwarded.

Claire F. Funkhouser, CMC
City Clerk/Treasurer
City of Rockville
City Clerk's Office
111 Maryland Avenue
Rockville, Maryland 20850
Phone: 240-314-8282
FAX: 240-314-8289

Email: cfunkhouser@rockvillemd.gov

----- Forwarded by Claire Funkhouser/RKV on 09/10/2008 12:14 PM -----



"Anne Marie Vassallo"
<annemariev@gmail.com>

09/08/2008 05:09 PM

To mayorcouncil@rockvillemd.gov,
shoffmann@rockvillemd.gov, jbritton@rockvillemd.gov,
pgajewski@rockvillemd.gov,
pmarcuccio@rockvillemd.gov,
arobbins@rockvillemd.gov

cc

Subject September 2008 Revisions to Zoning Ordinance - Time
for public review

September 8, 2008

Dear City of Rockville Mayor and Council Members:

I have noted (via a pro-active review of the City's website) that the latest version of the Rockville Zoning Ordinance Draft appears on the Agenda for this week's Mayor and Council meeting:

http://www.rockvillemd.gov/government/mc/agendas_minutes/2008/3108.htm

I urge the Mayor and Council to be extremely judicious in approaching adoption of this latest version of the Zoning Ordinance. A rush to adoption is not in order.

Over the course of a couple summer months with myriad periods of hearing, discussion, worksession and comment, the Mayor and Council were made aware of numerous concerns and observations related to the May 2008 draft Zoning Ordinance, as forwarded by the Planning Commission. Indeed, Staff distilled some 80+ letters into a much-simplified chart for Mayor and Council reference. This volume of information takes time not only to be absorbed both by Staff and by the Mayor and Council, but the Public also should be given the opportunity to determine if Staff has accurately reflected in the latest Draft the concerns that were communicated either by letter or at the public hearings.

There is no doubt Staff spent great time and effort integrating the many comments, observations and concerns into the latest Zoning Ordinance Draft. However, the community and property owners MUST be given the opportunity to review and comment on this latest version to determine if the intent and understanding of the comments and letters has been accurately reflected in the Draft. It serves no purpose at this point to rush to adopt a Zoning Ordinance now that the proverbial "end" may be in sight.

Thank you.

Sincerely,
Anne Marie Vassallo
Croydon Park resident

Exhibit No. 102
 Zoning Ordinance Rewrite
 PH Dates: 6/16 & 6/30/08



Brenda Bean/RKV
 09/10/2008 12:11 PM

To gm@wanada.org
 cc mayorcouncil, Susan Swift/RKV@RKV, Deane
 Mellander/RKV@RKV, Jim Wasilak/RKV@RKV
 bcc
 Subject Fw: Rockville's Pending Zoning Ordinance

Dear Mr. Murphy ~

On behalf of the Mayor & Council, I wish to acknowledge receipt of your email. Thank you for taking the time to write and for your interest.

Brenda F. Bean
 Deputy City Clerk
 111 Maryland Avenue
 Rockville, Maryland 20850
 email: bbean@rockvillemd.gov
 phone: (240) 314-8280
 fax: (240) 314-8929

----- Forwarded by Claire Funkhouser/RKV on 09/10/2008 12:14 PM -----



"Gerard Murphy"
 <gm@wanada.org>

09/08/2008 04:14 PM

Please respond to
 <gm@wanada.org>

To <mayorcouncil@rockvillemd.gov>
 cc
 Subject Rockville's Pending Zoning Ordinance

Dear Mayor Hoffman and Members of the City Council:

On behalf of the Washington Area New Automobile Dealers Association, I request that you defer action on the pending Zoning Ordinance review on issues which affect our members. As you are aware, the staff recommendations were posted on the city's website on Friday, Sept 5, 2008. The latest staff recommendations raise a variety of issues that we need time to clearly understand on behalf of our members.

We are particularly concerned about the "Conforming Structure" language. This issue was a major point of our previous letter and the new language will require reasonable time to review.

Also, new conditions have been recommended for Motor Vehicle Facility conditional use approval. Once again, automobile industry representatives require an opportunity to understand and to respond to such proposed changes.

The Ordinance does not yet address the previously raised possibility of increasing building height in the MXCD from 75 feet to up to 120 feet where approved by the mayor and Council in a final Sector, Master or Project Plan. The potential for additional building height would help encourage future mixed use redevelopment as part of an automobile dealership redevelopment proposal. The pending Rockville Pike Sector Plan does not include all properties in the City that are expected to be zoned MXCD. Accordingly, the Rockville Pike Plan and any associated Zoning Ordinance changes might not address the totality of the MXCD height issue.

Thank you for your consideration.

Very truly yours,

Gerard N. Murphy
President & CEO

Washington Area New Automobile Dealers Association
5301 Wisconsin Avenue, N.W., Suite 210
Washington, DC 20015
Tel. 202-237-7200 x15
Fax. 202-237-9090
Email. gm@wanada.org

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September 10, 2008

Routed To:

☒ Council

☐ City Attorney

William Kominers

☐ City Clerk

☐ Council Support Specialist

301 215 6610

☒ City Manager

☒ Other

william.kominers@hklaw.com

C. Tuck Parrish

Susan Swift
Dean Mellander
Jim Waselak

VIA ELECTRONIC MAIL AND OVERNIGHT MAIL

The Honorable Susan R. Hoffmann, Mayor
and Members of the Rockville City Council
Rockville City Hall
111 Maryland Avenue
Rockville, Maryland 20850

Re: Comments (Limited) on Final Draft (September 2, 2008) of Zoning Ordinance Revision

Dear Mayor Hoffmann and Members of the Council:

This letter is to expand upon the comments suggested in my electronic message of September 8, 2008, concerning the Final Draft (September 2) of the Zoning Ordinance Revision. I enclose for your information with this letter the following items representing my preliminary comments on the Final Draft. In the interest of time, I have simply marked up excerpted pages from the Final Draft.

1. Outline of Comments (Limited) providing recommendation and discussion on several sections of the Ordinance, particularly Article 8 (non-conformities), Article 13 (Mixed Use zones), Article 14 (Planned Development zones) and Article 3 (Definitions). (I have provided a longer Outline to the Staff that addresses additional and more technical elements, but incorporates the points in this enclosure.)

2. Handwritten mark-up of Article 14, related to Planned Developments.

3. Handwritten mark-up of Article 13, related to Mixed Use Developments, particularly the MXCD Zone.

4. Handwritten mark-up of Article 8, relating particularly to the grandfather provisions for existing and approved but unbuilt buildings and developments.

5. Handwritten mark-up of Article 3, regarding the definition for "Initial Approving Documents" related to the Planned Development Zones.

The Honorable Susan R. Hoffmann, Mayor
September 10, 2008
Page 2

I understand you will be having your first worksession on September 11, 2008. I am not certain whether you will reach the issues in these Articles, but I will glad to be available at that worksession or thereafter for information and discussion on these and other issues.

Thank you for your consideration of these matters.

Very truly yours,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read "William Kominers". The signature is fluid and cursive, with a large initial "W" and a long, sweeping underline.

William Kominers

Enclosures

cc: Mr. Scott Ullery
Ms. Susan Swift
Mr. James Wasilak
Mr. Deane Mellander
Sondra H. Block, Esquire
Cynthia M. Bar, Esquire

5596806_v1

Comments (Limited) on September 2, 2008, Final Draft Zoning Ordinance Revision

(Submitted by William Kominers, September 10, 2008)

This Outline represents my comments (limited) on the September 2, 2008 Final Draft Zoning Ordinance Revision. These comments are confined to Articles 3, 14, 13 and 8.

Article 3

1. Section 25.03.02, Definition of "Initial Approving Documents." This definition could be more explicit in describing all the elements that go into the approval of a Planned Development project ("PD").

(a) Change the term "Initial Approving Documents" to delete "Initial" and replace it with "Overall." The term "Initial" can be confusing, because it incorporates subsequent amendments of the original, "initial" approval. So as to clearly refer to the overall, organic approval for the entire PD project (rather than an individual element of that PD), the term "Overall" Approving Documents seems more appropriate.

(b) The provisions to be incorporated from the existing Ordinance are not properly limited to the elements enumerated in the Final Draft. The lead in language of the definition should add the term "special provisions," after the word "use" in the second line. This would then read "The collection of documents that established the density, use, special provisions, and development standards . . ." (This would be consistent with the definition for "Resolution of Approval" that was previously submitted.)

(c) Subsection d. Subsection d. references the provisions of the Chapter (i.e., the Zoning Ordinance) that are applicable "at the time of . . . the resolution of approval or the approved Preliminary Development Plan" for the PD. With this language, each PD would then reference and incorporate a different version of the Ordinance, based upon the at the time of the approval of each Resolution. Changes to the Ordinance that have occurred subsequent to the approval Resolution, but which may have been utilized in implementing the approval, could potentially be excluded. I believe that the majority of the PDs are abiding by the standards of the Ordinance as it exists today, prior to the adoption of the new Ordinance. Therefore, Subsection d. should instead incorporate by reference the version of the Ordinance "immediately before the adoption date of the new Zoning Ordinance."

Use of the provisions of the Ordinance "immediately before the adoption date of the new Zoning Ordinance" will be much simpler for administration. This was the language used in my original draft of the "Resolution of Approval" definition. By looking at the provisions of the Ordinance "at the time of the Resolution," each Resolution (and thus each PD Zone) will have to look at a snapshot of the Ordinance at a different point in time. Under my new proposed language, looking at the Ordinance "immediately before" the adoption of the new Zoning Ordinance, all the PD Zones will use the same prior Ordinance text – at a single point in time. This will substantially ease administration, as only one Ordinance, and only the most current Ordinance, will be needed.

(d) Subsection d. should indicate that the referenced provisions of the current Ordinance are "incorporated by reference" into the new Planned Development Zones for this purpose.

Article 14

1. Section 25.14.07.d.1. This paragraph should reinstate the language "as set forth in the previous Ordinance" and remove the language added by Final Draft "in effect at the time of approval." (This will conform to the correction suggested in the discussion of the definition in Article 3, above.)

In many instances, amendments have been made to the provisions of the current Ordinance that affect the Special Development Procedure Zones. These amendments may have occurred subsequent to a particular PD approval, but those amended provisions have then been utilized in the implementation of that PD.

This situation is particularly applicable in the commercial/ mixed use PDs. For example, forest conservation requirements, the provisions dealing with aboveground, high voltage transmission lines, and the provisions related to shared parking credits for mixed use, have been subsequent additions to the provisions for many PDs. In many instances, these provisions were not in place at the time of the "initial approval of the resolution" for a particular project. However, the intention of the Ordinance, as well as the practice of the City, has been to apply those standards to the implementation of each of those PDs. The new Ordinance should continue to apply that standard and not go backwards.

2. Section 25.14.07.d.2(d). Add to Subsection (b) the text ", partially completed," in front of the text "or unbuilt portions". Without this change to explicitly cover parts of the PDs that have not yet been completed or even begun, one would need

to add back, as a new subsection, the deleted language stating "portions of a Planned Development project where construction has not been commenced but where a use permit or a detailed application has been approved as of [effective date]. Implementation of an approved use permit or detailed application may proceed unless those approvals expire without implementation." The proposed additional text makes the coverage more explicit.

3. Section 25.14.07.e, Amendment of a Planned Development. This section needs to exclude from treatment as a "change" in the Overall [Initial] Approving Documents, the initial adoption and future amendment of the Zoning Ordinance (i.e., the adoption of the new Ordinance).

Now that portions of the existing Zoning Ordinance are included within the definition of the Overall [Initial] Approving Documents, a change in the provisions of the existing Zoning Ordinance -- such as what is brought about by the wholesale adoption of the new Ordinance -- could be read as requiring a Planned Development amendment. While this is highly technical and not likely something that would be argued in the future by the City, it leaves a potential ambiguity that could be misunderstood later.

4. Section 25.14.07.f. Add the phrase "as applied to only the particular site plan for which the application is made" at the end of the sentence. This will allow the evaluation called for under Article 7 to apply only to the contexts of the particular site plan for which application is being made, rather than bringing into the calculation equation the points arising from the entirety of the Planned Development.

Article 13

1. Section 25.13.05.b.2. The provisions for building height for the MXTD Zone and the MXCD Zone seem to use conflicting language. The MXTD Zone allows "additional building height up to 120 feet at the street," where the MXCD Zone allows "additional building height up to 75 feet at the building line." Is this an intended distinction between "at the street" and "at the building line"? To be the same relative location, the terminology should be similar. The Ordinance should use "at the street" throughout, otherwise the height standard for the facades would apply to all sides of a building, not just those along the street.

2. Section 25.13.05.b.2(e). This section should restore the explicit exclusion of the layback slope: (i) to areas within a PD Zone, and (ii) relative to adjacency to sites that are in a single unit detached residential zone development that is recommended for

non-residential uses. At such time as redevelopment occurs within the Planned Development zones, the layback slope should not apply internally.

3. Section 25.13.07.b.6. In the last sentence, the words "at the side or rear" should be inserted after the word "parking." The sentence would then read: "all parking at the side or rear must be screened to prevent vehicle headlights from shining onto adjoining residential properties." Parking that is located in the front, to serve first floor retail, should not be subject to screening requirements.

Article 8

1. Former Section 25.08.03. Nonconformities in General. This Section should be restored. Without this Section, there does not appear to be any provision to explicitly allow development to continue (as non-conforming), once it becomes non-conforming due to the New Ordinance.

2. Section 25.08.06. Certain Existing Structures or Development (Grandfathering).

(a) Section 25.08.06.a. does not address the situation of development that is approved under the current Ordinance but then is not constructed until after adoption of the new Ordinance. By limiting the applicability to "any existing structure or development," this Section implies that the protected elements must be "physically in existence" at the time the new Ordinance is adopted. This is unfair to those projects which have obtained approvals under the existing Ordinance but have not yet been able to commence or complete construction before the new Ordinance is adopted. Clearly, under the Transitional Provisions of Section 25.08.02, these approvals are allowed to continue and be implemented. However, once built, are they conforming (by being grandfathered) or non-conforming? They should be protected as being "deemed conforming" once the new Ordinance is in place, just as if they physically existed beforehand.

The Transitional Provisions of Section 25.08.02 do not adequately address this situation. Although the Transitional Provisions indicate that an approved plan may be implemented in accordance with its earlier approval, the Transitional Provisions do not address whether or not, or in what manner, once constructed pursuant to that approval, the development is conforming or non-conforming under the new Ordinance.

If the intention is to treat the implementation of those earlier approvals as if they are "existing development" under Section 25.08.06, then in either Section 25.08.06 or Section 25.08.02 that matter should be stated explicitly, so that for purposes of financing,

reconstruction in the event of casualty, etc., a specific conforming provision will be available to demonstrate to lenders.

Alternative language to deal with this issue had been presented during the worksessions (in the context of this provision being in Section 25.13.05.d at the time). This earlier proposed language is as follows (underlined):

"Any structure or development in existence or for which development approval such as a use permit approval, detailed application approval, building permit approval or any other development approval has been obtained as of [effective date] is considered to be conforming"

(b) The language in Section 25.08.06.a. indicates that this existing development is considered to be conforming "for purposes of reconstruction." That is very limited, more limited than the language included in the Planning Commission draft which indicated that such development is simply "considered to be conforming." In Section 25.08.06.a. the language for "purposes of reconstruction" should be deleted, and replaced with "and is".

(c) The language in Section 25.08.06.a. "considered to be" conforming should be changed to "deemed to be" conforming. The existing development is intended to be conforming, not just "considered" to be.

5597862_v1

ARTICLE 14

KOMINEN
9/9/08
Attache

MAYOR AND COUNCIL FINAL DRAFT 9-2-08

- a. *Purposes* – Prior to _____ [effective date], developments with special provisions for development standards and types of uses were approved through several types of special development procedures (Comprehensive Planned Development, Planned Residential Unit, Preliminary Development Plan, I-3 Zone Optional Method, etc.). Under these procedures, the development approved may have little or no relation to the underlying zone or zones. In order to more clearly identify ~~such planned developments approved development and to ease the administration of these properties in the land records, these special developments~~ are each being placed in their own Planned Development Zone, and the Initial Approving Documents. ~~As such, the resolutions of approval adopted by the Mayor and Council and the Preliminary Development Plans approved by the Planning Commission, along with any accompanying documents, any subsequent amendments thereto, and related development standards, are included by reference~~ in the respective Planned Development Zones. In addition, one (1) or more equivalent zones are designated for each Planned Development Zone.

AS THE
STANDARDS
THAT ARE
APPLICABLE

b. *Uses*

1. Only those uses specifically permitted by the initial approving documents any ~~of the following~~ are allowed in a Planned Development Zone.

(a) ~~The resolution of approval or an approved preliminary development plan;~~
or

(b) ~~The provisions of the Zoning Ordinance in effect and applicable to the particular planned development at the time of the resolution of approval or approved preliminary development plan.~~

2. Notwithstanding the provisions of subsection 25.14.07.b.1. above, the Mayor and Council, in connection with an amendment to an approved Planned Development plan, may allow one (1) or more of those uses set forth in the equivalent zone specified for those areas of the Planned Development plan designated for nonresidential uses.

c. *Zones Established*

1. *Principally Single-Unit Residential Developments* – The following are principally single-unit residential Planned Developments in the City:

(a) PD-RS – Rockshire;

(b) PD-FM – Fallsmead;

(c) PD-FM2 – Fallsmead 2;

MAYOR AND COUNCIL FINAL DRAFT 9-2-08

- (d) PD-FB – Fallsbend;
 - (e) PD-CH – Carter Hill;
 - (f) PD-BA – Barnside Acres;
 - (g) PD-FL – Flint Ledge Estates;
 - (h) PD-RH – Rose Hill;
 - (i) PD-RHF – Rose Hill Falls;
 - (j) PD-BU – Buckingham Property.;
 - (k) PD-CL – Chestnut Lodge;
 - (l) PD-NM – New Mark Commons;
 - (m) PD-DF – Dawson Farm;
 - (n) PD-MH – Meadow Hall;
 - (o) PD-RF – Redgate Farm; and
 - (p) PD-LG – Legacy at Lincoln Park.
2. *Principally Mixed-Use Residential and Commercial Development* - The following are principally mixed-use residential and commercial developments in the City:
- (a) PD-KF – King Farm;
 - (b) PD-FG – Fallsgrove;
 - (c) PD-UR – Upper Rock;
 - (d) PD-TO – Tower Oaks;
 - (e) PD-KSI – KSI Apartments;
 - (f) PD-TC – Twinbrook Commons;
 - (g) PD-RCI – Rockville Center, Inc.; and

MAYOR AND COUNCIL FINAL DRAFT 9-2-08

(h) PD-TS – Town Square.

3. *Principally Commercial Development* - The following are principally commercial developments in the City:

(a) PD-SG – Shady Grove;

(b) PD-MC – Metro Center; and

(c) PD-CB – Champion Billiards.

d. *Development Standards*

~~1.1. General Policy~~ - The ~~Planned Development~~ Planned Development projects located in the ~~Planned Development Zones~~ were approved by the Mayor and Council or Planning Commission as a unified, coherent design. Depending on the project, the development standards may, or may not, have been specified in the project approvals. In some instances the development standards of the underlying zone as set forth in the in effect at the time of the previous ordinance of approval applied to some aspects of the development project, and were not restated in the project approval. In addition, a number of the projects are subject to annexation agreements or development agreements with the City that have specific terms for how the development will proceed. All of these documents constitute the Initial Approving Documents as defined in §25.03.02.

RESO

~~3.2. Approved Development Standards~~ - The development standards (including, but not limited to, those standards for building heights, setbacks, lot coverage, lot sizes, density, and open space) set forth in the ~~Initial Approving Documents~~ resolution of approval, approved Preliminary Development Plan, approved use permit, or approved detailed application apply to the following:

(a) Completed Planned Development projects;

, PARTIALLY
COMPLETED,

(b) Completed or unbuilt portions of Planned Development projects;

(c) Replacement in kind ~~in~~ of any completed portion of a planned Planned development Development projects or completed portions of such development projects; and

3. *Equivalent Zone Development Standards* - ~~Approval~~ Where, in the determination of the Approving Authority, the resolution of approval or approved Preliminary Development Plan does not provide specific standards,

MAYOR AND COUNCIL FINAL DRAFT 9-2-08

The development standards ~~for of~~ the equivalent zone designation for each Planned Development Zone apply to

4.(a) In the absence in the Initial Approving Document of specific development standards related to minimum setbacks, maximum building height, lot coverage or lot dimensions:

(b) To that portion of an approved Planned Development Plan for which a major amendment to the Initial Approving Documents is sought unless waived in accordance with subsection 25.14.07d.5.

(c) Redevelopment of any portion of a Planned Development.

~~(a) Any portion of a Planned Development project that does not have either an approved use permit or an approved detailed application, or~~

~~(b) Any portion of a Planned Development project for which an amendment to an approved use permit or detailed application is sought.~~

~~Portions of a Planned Development project where construction has not commenced but where a use permit or detailed application has been approved as of _____ [effective date]. Implementation of an approved use permit or detailed application may proceed unless those approvals expire without implementation.~~

~~Development Standards for Amendment to a Planned Development Approval~~

~~(da) The development standards for the equivalent zone will supersede the development standards contained in the #Initial Approving Documents resolution of approval or the approved Preliminary Development Plan for only that portion of the Planned Development plan subject to the amendment, or redevelopment.~~

MAJOR

~~(b) Subject to the provisions of subsection 25.14.07.d.6.(c), nothing herein shall preclude the Mayor and Council from applying certain standards of the equivalent zone to the entire Planned Development project if, pursuant to subsection 25.14.07.d.6. below, the portion of the development plan being amended is not required to comply with all of the development standards of the equivalent zone.~~

5.4. Waiver of Equivalent Zone Standards- The Approving Authority may waive the application of one (1) or more of the development standards of the designated equivalent zone upon a finding that the applicant has shown good cause as to why the development standard should not apply to any portion of the Planned Development project. In determining whether the burden of establishing good cause has been met, the Approving Authority must consider the following:

MAYOR AND COUNCIL FINAL DRAFT 9-2-08

(a) Whether the development standard of the equivalent zone is consistent with the completed portion of the Planned Development project;

(b) Whether applying the development standard of the equivalent zone is consistent with good planning and design principles;

(c) Whether applying the development standard of the equivalent zone is aesthetically pleasing;

DELETE.
TOTALLY
SUBJECTIVE
AND
ARBITRARY

(d) Whether applying the development standard of the equivalent zone is technically reasonable and practically feasible. (The cost of applying the standard alone, shall not constitute a reasonable practical difficulty.) and;

DELETE

(e) Such other factor as the Approving Authority deems appropriate.

AND THAT IS
REASONABLE
IN THE
CIRCUMSTANCES

6.e. Amendment of a Planned Development

(BUT NOT
INCLUDING THE
INITIAL ADOPTION
OR FUTURE
AMENDMENTS OF
THIS CHAPTER)

1. When Required, General - Any change in the provisions of the Initial Approving Documents of the following proposed changes to a Planned Development project will require approval of a Planned Development plan amendment by the Mayor and Council.:

(i) Any increase in the intensity of the development (dwelling units, gross square footage, etc.)

(ii) Any increase in building heights

(iii) Types of uses not previously approved;

(iv) A major relocation of public streets;

(v) A reduction or expansion of public or private open space; and

(vi) Such other proposed change in the project that the Planning Commission determines to be of such significance as to require an amendment to the development plan.

2. Procedure - Any proposal to amend the Initial Approving Documents of a previously approved planned development plan (exploratory plan, concept plan, or preliminary development plan) requires the filing of a development project plan amendment application with the Chief of Planning. Such application must comply, and will be processed

MAYOR AND COUNCIL FINAL DRAFT 9-2-08

in accordance, with the requirements for a project plan as set forth in Article 7 of this Chapter.

3. *Limitations* – Amendments to a the Initial Approving Documents of a planned-Planned development-Development project approved by the Mayor and Council shall be limited to the substance or area encompassed by the amendment application and may not affect other aspects of the approved planned development project without the consent of the applicant. Nothing, however, shall preclude the Mayor and Council from considering all aspects or areas of the approved planned development project in determining whether or not the requested amendment is appropriate.

(4) Major Planned Development Amendment. The following are major Planned Development Amendments subject to the Equivalent Zone development standards.

- (a) Any increase in the intensity of the development (dwelling units, gross square footage, etc.) beyond what is authorized in the Initial Approving Documents;
- (b) Any increase in building heights beyond what is authorized in the Initial Approving Documents;
- (c) Types of uses not approved in the Initial Approving Documents;
- (d) A major relocation of public streets;
- (e) A material reduction in the cumulative amount of public or private open space; and
- (f) Such other proposed change in the project that the Planning Commission determines to be of such significance as ~~be a substantial deviation from the Initial Approving Documents and therefore require a~~ major amendment to the development plan.

f.7. *Site Plan Required* – The implementation of an approved Planned Development development consistent with the approved development plan will require approval of a site plan in accordance with the requirements set forth in Article 7. ~~The Chief of Planning will determine the level of review required, based on the nature and complexity of the proposed site plan.~~

25.14.08 – PD-RS (Rockshire)

AS APPLIED TO ONLY THE
PARTICULAR SITE PLAN FOR
A-86 WHICH THE APPLICATION
IS MADE.

MXE	120	20	None required; 10' min. if provided	25' or ½ height of building, whichever is greater	None 10' min. if provided	25' or ½ height of building, whichever is greater	None 10' min. if provided	See Sec. 25.13.05.b.2.(c) and 25.13.05.b.2.(e)
MXB	55	20	None required; 10' min. if provided	25' or height of building, whichever is greater	None required; 10' min. if provided	25' or ½ height of building, whichever is greater	None required; 10' min. if provided	
MXNC	45 ³	20	None required; 10' min. if provided	25' or height of building, whichever is greater	None required; 10' min. if provided	25' or height of building, whichever is greater	None required; 10' min. if provided	See Sec. 25.13.05.b.2.(e)
MXC	30'	20	10'	15'	None required; 10' min. if provided	25' or height of building, whichever is greater	None required; 10' min. if provided	
MXT	35	20	10'	10'	None	20'	None required; 10' min. if provided	

¹Nonresidential Land Abutting Side Setback – This term also includes multi-unit residential uses with a height of 45 feet or greater.

²~~MXTD Height Increase~~—Height may be increased to 150 feet in accordance with is subject to the provisions of Section 25.13.05.b.2(a), below.

³~~MXNC Height Increase~~—Height may be increased to 65 feet in accordance with the provisions of Section 25.13.05.b.2.(d) below.

2. Building Height

(a) MXTD Zone—

~~(b)(i)~~ Building facades adjoining a public street right of way should have a range of heights of between 45 and a maximum of 65 feet at the street ~~building line~~. Additional building height up to 120 feet at the street may be allowed where recommended by the Plan or where approved by the Mayor and Council as part of a project plan under Section 25.07.06. Building walls/facades that exceed 250 feet in length should vary the façade height by at least ten feet (10') for some distance along the length of the building wall/facade in order to avoid a monotonous, monolithic appearance.

DELETE. OTHERWISE APPLIES TO ALL SIDES? →

RESTORE.

(ii) _____ Where recommended in the Plan, or if approved by the Mayor and Council as part of a project plan approval in accordance with Section 25.07.06, building height may be increased beyond 120 feet up to 150 feet under the following conditions:

ADD TO
MXCD
USING
75'-120'

(i) _____ A. The public use space requirement must be provided on the site;

(ii) _____ B. The building footprint cannot occupy more than 80% of the net lot area;

(iii) _____ C. The building design exceeds the urban design recommendations of the applicable Master Plan; and

(iv) _____ D. The building must ~~be designed for maximum energy conservation and/or exceed~~ complies with any energy conservation standards set forth in this Code.

DELETE.
OTHERWISE
APPLIES TO
ALL SIDES?

(b) ~~MXCD Zone~~— Building facades adjoining a public street right-of-way should have a range of heights of between 35 and ~~a maximum of 50 feet at the street building line~~. Additional building height up to 75 feet at the building line may be allowed where recommended by the Plan or where approved by the Mayor and Council or Planning Commission as part of a project plan or site plan under Section 25.07.06 or Section 25.07.05 as applicable. Building walls facades that exceed 250 feet in length should vary the façade height by at least ten feet (10') for some distance along the length of the building facade wall in order to avoid a monotonous, monolithic appearance.

RESTORE

STREET

100' BLDG- ADDS
INDUSTRIAL = 50'
SETBACK?
VS. 25'?

(c) ~~MXE Zone~~ – Buildings that exceed 45 feet in height, and ~~do not~~ do not abut any land existing or planned for a Single-Unit Detached or Semi-Detached Residential Zone, must be set back from the side and rear lot lines by a distance at least equal to one-half (1/2) the height of the building.

✗
WRONG

(d) ~~MXNC Zone~~ - Building height may be increased up to 65 feet when found suitable in accordance with the Plan.

(iii) (e) *Layback Slope* – In addition to the height limits set forth in this Article, building height cannot penetrate a layback slope line of 30 degrees, beginning from the closest ground point of the lot line of any property in the Public Park Zone or within any Residential Zone where single unit detached, semi-detached, or townhouse development exists without regard to intervening roads or other transportation facilities as shown in Figure 13.1. This layback slope requirement does not apply to

(i) ~~the following:~~

~~(i) Nonresidential historic sites or public parks in the Mixed Use zones;~~

~~(ii) Sites in a single unit detached residential zone developed or recommended for nonresidential uses;~~

~~(iii) Areas adjacent to the MXT Zone;~~

(ii) areas adjacent to Metro rapid transit or railroad right of way.

~~(iv) Areas adjacent to the MXC Zone; or~~

(v) Areas within a PD Zone.

RESTORE.

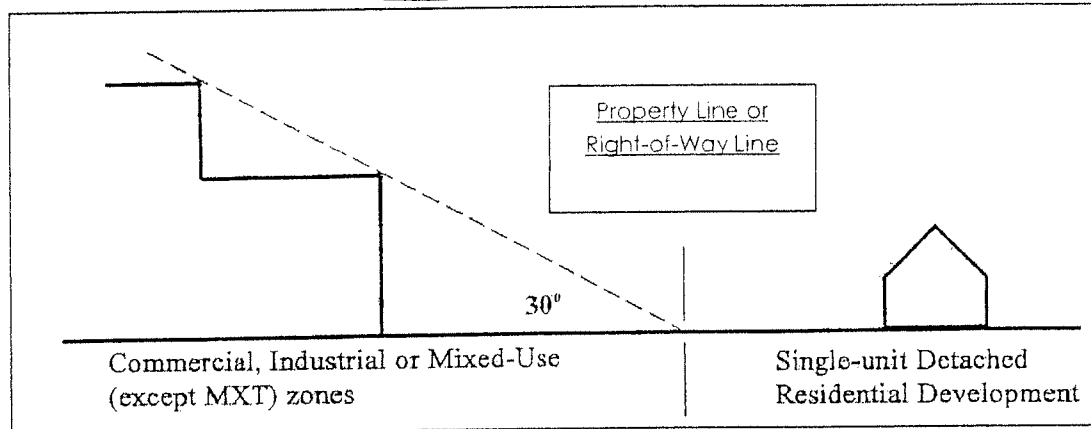


Figure 13.1- Layback Slope Example

c. *Other Standards and Requirements for New Development or Redevelopment*

1. *Conversion of Space* - Areas of a building originally designed for commercial or office use are encouraged to be designed to accommodate the conversion of the space to residential uses.
2. *Entryways* - Areas of a building originally designed for residential use at the ground floor level, having individual entries to the units, should have the entry from the ground level raised at least two (2) feet, or have another form of demarcation between the public sidewalk and the private entry. In order to be readily convertible to retail space, such areas must have a minimum ceiling height of 15 feet.

ARTICLE 8

MAYOR AND COUNCIL FINAL DRAFT 9-2-08

KOMINIS

9/9/08

AttachA



~~(a) All phases of a multi-phase project for which a use permit or detailed application has been approved as of — (date of adoption) must be commenced within eight (8) years from the date of the approval letter of the Approving Authority or the use permit will expire. A use permit will become void for those buildings within a multiple building development for which construction has not commenced within eight (8) years from the date of the use permit approval letter.~~

~~(b) Any multi-phase project for which a use permit was approved prior to October 25, 1993 that has not commenced construction on all buildings as of — [effective date] has eight (8) years from — [effective date] to commence construction on all buildings or the use permit will expire.~~

~~(c) Nothing herein shall affect the validity of a use permit for a building constructed in accordance with the requirements of the use permit prior to the expiration for the time frames set forth herein.~~

c. Expiration of Development Approval – Upon the expiration of any development approval granted by an Approving Authority for a development prior to — [effective date], or upon the granting of any subsequent superseding permit or other approval, the requirements of this Chapter shall apply to any new application for approval for development.

DOES NOT
MEAN
AN INT
REPLACE
APPROV

25.08.03 – Nonconformities, in General

Any use or development rendered non-conforming by the adoption of this Chapter or any amendment thereto, may continue subject to the limitations provided in this Chapter.

RESTRICTED

25.08.04.03 – Qualifying Substandard Lots

Any lot legally recorded by subdivision plat that is at least 40 feet wide is deemed to be a buildable lot even though it may have less than the minimum area required in any current residential zone. Such lots may be developed under the zoning development standards in effect when the lot was recorded except that:

1. A lot created by deed prior to October 1, 1957 that is a minimum of 5,000 square feet in area and at least 40 feet wide may be recorded as a buildable lot;
2. The maximum building height and maximum building coverage for any building or structure must comply with the current standards of the zone in which the lot is classified;

repaired or replaced in kind in its original location, subject to approval of the Historic District Commission, notwithstanding ~~its the dwelling or resource's~~ failure to comply with any development standard contained in this Chapter. Any renovations or additions beyond the scope of the original structure ~~must comply is~~ subject to with the provisions of this Chapter.

c. *Nonconformity through Public Taking*

1. A building, structure, or site improvement is not a development standards nonconformity if it is located on an otherwise lawful lot and the lot was reduced in area by a taking under eminent domain or by government acquisition in lieu of eminent domain or ~~other government action~~ that would otherwise render the building, structure, or improvement nonconforming because a dimension of the building, structure, or site improvement or the location on the lot is deficient. The building, structure, or site improvement may be repaired, altered, or reconstructed, if it is an otherwise lawful use, only to the extent of original development existing on the date of the governmental ~~action~~ acquisition.
2. In the event such property is subject to redevelopment that includes the removal of the principal use or structure on the site, the new development must conform to all provisions of this Chapter.

d.g. *Nonconforming Alteration Approvals* – Any proposed alteration, expansion, or enlargement to a development standards nonconformity under this ~~Section~~ Section 25.08.05.a. must comply with the nonconforming alteration permit requirements set forth in Section 25.08.07.

e.h. *Sidewalk Modifications* - Sidewalks on private property that do not meet the standards set forth in Section 25.17.05 are not nonconforming and may be repaired or replaced in kind. If the property is subject to development or redevelopment, then all sidewalks ~~should comply with~~ are subject to the guidelines set forth in Section 25.17.056.

25.08.06 – Certain Existing Structures or Development

- a. Any existing structure or development ~~that no longer conforms to the development standards of the zone in which it is located, but does conform to the development standards and requirements in effect immediately prior to [effective date] is considered to be conforming for purposes of~~ reconstruction subject to the following:

AND IS

DEEMED

ONLY
THE
FORM
BEING
CHANGE

SHOULD
"CONFORM"
FOR ALL
PURPOSES

OR FOR WHICH DEVELOPMENT APPROVAL SUCH AS A USE PERMIT
APPROVAL, DETAIL USE APPLICATION APPROVAL, BUILDING PERMIT APPROVAL
OR ANY OTHER DEVELOPMENT APPROVAL HAS BEEN OBTAINED
AS OF [EFFECTIVE DATE]

MAYOR AND COUNCIL FINAL DRAFT 9-2-08

h-1. In the event the structure or development is damaged or destroyed by fire, flood, explosion, or other cause or casualty outside the control of the property owner, the structure or development may be reconstructed to the density and configuration which existed immediately prior to the damage or destruction. An additional five percent (5%) of gross floor area may be built provided that it does not create, extend, or enlarge any development nonconforming.

2. If a structure is demolished, or a redevelopment of a site occurs, due to causes within the control of the property owner, all reconstruction and redevelopment must comply with the development standards and requirements of the zone in which the property is located.

b. Any expansion, alteration or enlargement to the portion of the structure or building that no longer conforms to the development standards of the zone in which it is located is subject to the provisions of Section 25.08.05.a. and Section 25.08.07.

e-c. If extensions or additions to such an existing structure or development cumulatively exceed 50% of the existing gross floor area, the entire structure or development must comply with all of the then current development standards contained in this Chapter.

25.08.07 – Nonconforming Alteration Approval

a. Requirement

1. *Chief of Planning Review* – Nonconforming alteration approvals by the Chief of Planning are required in order to maintain nonconforming zoning entitlements for the following:

(a) Expansion of a nonconforming use to those parts of a building that were specifically designed or arranged for such use prior to the date when such use of a building became nonconforming; or

(b) The modification of any nonconformity on a Single Dwelling Unit Residential Zone lot, and/or

2. *Planning Commission Review* – Nonconforming alteration approvals by the Planning Commission are required to maintain nonconforming zoning entitlements for the following:

(a) Expansion, modification, or structural alteration of a structure or premises occupied by a nonconforming use, and/or

ARTICLE 3

KOMINERS

9/9/08

AttachA



COUNCIL FINAL DRAFT 9-2-08

Impervious Surface - An area that prevents or severely restricts water from reaching the sub-surface and recharging groundwater. This condition can be caused by a structure, paving, compacted soil or gravel or other feature that forms a barrier between precipitation and the earth's surface. Impervious surface also includes elevated structures, such as a bridge or deck regardless of whether the land surface beneath it itself is pervious or impervious.

Improvement - Any building, structure, road, driveway, parking or loading area, pedestrian path, landscaping, screening, fencing, or recreational facility.

Improvement, Public - Any or all of the following improvements for the benefit of the public generally: roads and streets, alleys, grading, road pavement, fire hydrants, curbs and gutters, sidewalks, crosswalks and pedestrian paths, water mains, sanitary sewer lines, storm drains, drainage structures, rain gardens, stormwater swales, curb returns, sidewalks and driveway entrances in rights-of-way, guardrails, retaining walls, sodding, planting, monuments, streetlights, and other infrastructure owned by the City or other governmental entities.

OVERALL

~~Initial~~ Approving Documents - The collection of documents that establish the density, use, and development standards that guide the build out of a planned development located in any of the Planned Development zones contained in Article 14 of ~~the~~ this chapter. Those documents include one or more of the following:

- Any resolution of approval by the Mayor and Council and any subsequent amendment thereto including any attachments;
- Any preliminary development plan approval by the Planning Commission and any subsequent amendment thereto including any attachments;
- Any annexation agreement or other development agreement;
- The provisions of this Chapter applicable to the particular planned development ~~at the time of~~ and not inconsistent with, the resolution of approval or the approved Preliminary Development Plan.

ARE INCORPORATED BY REFERENCE.

ON ~~THE~~ [DATE],
IMMEDIATELY
BEFORE THE
ADOPTION
THIS CHAPTER

Interim Historic Review - That period of time between the initiation of the historic designation process as set forth in Sec. 25.14.01.d.1 and the final determination by the Mayor and Council as to whether the property is historic.

Interior Lot - See "Lot, Interior."

Junk Yard - Any land or building used for the abandonment, storage, keeping, collecting or baling of paper, rags, scrap metals, other scrap or discarded materials, or



Brenda Bean/RKV
09/11/2008 01:47 PM

To Anne Madeo <acmadeo@hotmail.com>
cc mayorcouncil@rockvillemd.gov, Susan Swift/RKV,
Deane Mellander/RKV, Jim Wasilak/RKV
bcc

Subject Re: Rezoning of Stonestreet Ave. property

Dear Ms. Madeo ~

On behalf of the Mayor and Council, thank you very much for your e-mail concerning proposed changes to the Rockville Zoning Ordinance. The Mayor and Council, and the appropriate staff who have seen your comments, appreciate the feedback. The draft Zoning Ordinance will again be the topic of discussion at a Mayor and Council worksession this evening should you wish to tune in. The meeting will begin at 6:30 and will be televised on TRC 11.

Thank you again for your interest and your input.

Brenda F. Bean
Deputy City Clerk
111 Maryland Avenue
Rockville, Maryland 20850
email: bbean@rockvillemd.gov
phone: (240) 314-8280
fax: (240) 314-8929
Anne Madeo <acmadeo@hotmail.com>



Anne Madeo
<acmadeo@hotmail.com>
09/11/2008 01:47 PM

To <mayorcouncil@rockvillemd.gov>
cc

Subject Rezoning of Stonestreet Ave. property

Mayor Hoffman and Council Members,

I have lived at 503 Grandin Ave. in East Rockville for the past 5 years. I've thoroughly enjoyed the community and raising my two children there. If there were one complaint I had about the neighborhood, however, it is the current zoning of the Stonestreet Convenience Mart building on South Stonestreet Avenue.

There is no reason for that building to be zoned to able to sell liquor. The East Rockville community is literally a stone's throw away from a county liquor store on Rockville Pike that has a wider selection and is more appropriately placed in a commercial district. Although the owner of the building purported in the Gazette that he wishes to be a good neighbor, the businesses in the building do not serve the community. I have never seen an East Rockville resident come or go from the liquor store. It is typically individuals who I don't recognize from the neighborhood (outside of the fact that I see them near the liquor store), who appear to be buying a single can of beer, a pack of cigarettes or lottery tickets (the only products the store appears to sell).

I urge you to follow the recommendation of the Planning Commission and zone that property residential only. That is the *only* commercial development on that side of Stonestreet Avenue until you get to the Burgundy center strip mall at the intersection of 28 and Baltimore Road. As a resident of the community who has spoken with her neighbors about this issue, I feel qualified to say that the Planning Commission recommendation is completely in line with the desires of the community surrounding that building. If you feel that a residential only zone is inappropriate, then *at minimum* it should be zoned as MXC, which would adhere to the East Rockville Neighborhood Plan's recommendation and would restrict alcohol sales at that location. A continuation of its current zone is absolutely wrong for its location in a residential community near an elementary school (St. Marys).

Thank you for your attention and I look forward to learning of your decision.

Anne C. Madeo

Get more out of the Web. Learn 10 hidden secrets of Windows Live. [Learn Now](#)

**SHULMAN
ROGERS
GANDAL
PORDY &
ECKER, P.A.**

RECEIVED
CITY CLERK'S OFFICE

21 SEP 11 AM 10:10

Routed To:

☒ Council

☐ City Clerk

☒ City Manager

C. Tock Parrish

Exhibit No. 105 AttachA
Zoning Ordinance Rewrite
PH Dates: 6/16 & 6/30/08

(301) 230-5200
dfreishtat@srgpe.com

☒ City Attorney

☐ Council Support Specialist

☒ Other

S. Swift
D. Mellander
J. Wasilak

September 11, 2008

The Honorable Susan Hoffman, Mayor
And Members of the Rockville City Council
Rockville City Hall
111 Maryland Avenue
Rockville, MD 20850

Re: Limited Comments on the Final Draft (September 2, 2008) of
Zoning Ordinance Revision
Our File No. 102287.00004

Dear Mayor Hoffman and Members of the Council:

This Firm Represents David Fink and Marc Solomon, the principals of the ownership of the "Minimall" at Seven Locks Road and Fortune Terrace. This property is currently zoned C-1 and has been recommended in the draft revisions for the MXCD zone. The owners of this property have been discussing their future development plans with the staff, which include redevelopment of the shopping center site and the industrial park properties to the north side of Fortune Terrace.

The ownership has tentative plans for the redevelopment of the entire site in a mixed use project. Their ownership extends from Seven Locks Road eastward to the limits of the I-270 right-of-way, and from the Minimall north to the County depot property. To the south is the new Parc Potomac development and across I-270 is the Tower Oaks development.

In the latest version of the revisions to the zoning ordinance, the MXCD zone is recommended for the north side of Fortune Terrace, but the shopping center is shown as MXNC. As stated previously, the shopping center is an interim use, and will be an integral part of the mixed use development under the MXCD zone.

It is requested that the map continue to show the entire Finmarc property as MXCD, to allow for the redevelopment of the site under a mixed use with appropriate accommodation for the adjoining land uses.

I would also like to comment upon the height considerations in the MXCD zone. At this location, there is substantial height in the condominium and office buildings in the Parc Potomac project. The Tower Oaks project across I-270 also has substantial height. It will be appropriate for

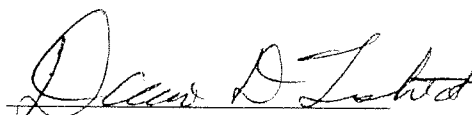
The Honorable Susan Hoffman, Mayor
September 11, 2008
Page 2

the MXCD zone to allow for height in locations where the additional height is deemed appropriate by the staff and the Planning Commission. I do not want to get too site specific but as noted the properties to the south and east have tall buildings. The property to the north is the County maintenance depot, and height is the best way to shield and mitigate that use from the mixed residential and commercial uses that will be proposed for the subject site.

I will be available to respond to any questions you may have.

Thank you for your consideration in this matter.

Sincerely,


David D. Freishtat

DDF:grs

cc: Mr. Scott Ullery
Ms. Susan Swift
Mr. James Wasilak
Mr. Deane Mellander
Sondra H. Block, Esquire
Mr. David Fink
Mr. Marc Solomon



"Jim Reschovsky"
<jreschovsky@verizon.net
>

09/15/2008 09:14 PM

To <mayorcouncil@rockvillemd.gov>

cc

bcc

Subject Last week's Citizen's Forum

Dear Mayor Hoffmann and members of the Council,

I returned yesterday from a two week vacation and was surprised to open up the Gazette to see the headline "Woodley Gardens storms council meeting." It was my reading of your earlier work session in August that you were in largely agreement with the Woodley Gardens Civic Association position that MXNC was inappropriate for the Woodley Gardens Shopping Center. I want to let you know that the presentations at the meeting last week were organized without the involvement or knowledge of anyone on the Woodley Gardens Civic Association executive committee.

I know you all endure lots of long meetings as part of your public service and the last thing I would want to do is to unnecessarily make these longer than necessary.

Thanks for your understanding.

Jim Reschovsky
President
Woodley Gardens Civic Association

SHULMAN ROGERS GANDAL PORDY & ECKER, P.A.

Lawrence A. Shulman
Donald R. Rogers
David A. Pordy⁺
David D. Freishtat
Martin P. Schaffer
Christopher C. Roberts
Edward M. Hanson, Jr.
David M. Kochanski
Robert B. Canter
Daniel S. Krakower
Kevin P. Kennedy
Nancy P. Regelin
Samuel M. Spiritos⁺
Martin Levine
Worthington H. Talcott, Jr.⁺
Fred S. Sommer
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Alan S. Tilles
Michael V. Nakamura
Jay M. Eisenberg⁺
Douglas K. Hirsch

Glenn C. Erelson
Karl J. Protil, Jr.⁺
Timothy Dugan⁺
Kim Viti Fiorentino
Sean P. Sherman⁺
Gregory D. Grant⁺
Jacob S. Frenkel^{*}
William C. Davis, III
Michael L. Kabik
Scott D. Muscles
Michelle R. Curtis^{*}
Michael J. Lichtenstein
Howard J. Ross⁺
Jeremy W. Schulman
Rebecca Oshway
Alan B. Sternstein
Michael J. Froehlich
Sandy David Baron
Christine M. Sorge
Jeffrey W. Rubin
Simon M. Nadler

Karl W. Means
Mimi L. Magyar
Glenn W.D. Golding⁺
Matthew M. Moore⁺
David S. Wachen
Stephen A. Metz
Patrick J. Howley
Jacob A. Ginsberg
Christine P. "Tina" Hsu
Aaron A. Ghais
Eric J. von Vorys
Hong Suk "Paul" Chung⁺
Deborah A. Klis^{*}
Heather L. Howard⁺
Kristin E. Draper^{*}
Melissa G. Bernstein^{*}
John D. Sadler
Marc E. Pasekoff
Alexis H. Peters^{*}
Meredith S. Campbell
Leslie G. Moylan^{*}

Exhibit No. 107 **AttachA**
Zoning Ordinance Rewrite
PH Dates: 6/16 & 6/30/08

Stacey L. Schwab^{*}
Courtney R. Sydnor[†]
Michelle Hunter Green^{*}
Jessica O. Hepburn^{*}
Mark R. Mann[†]
Max R. Masinter^{*}
Alan B. Sutton
Elizabeth T. Passyn^{*}
Rachel E. Solomon^{*}
Reza Goleosorkhi^{*}
Edward P. Henneberry
SaMonna L. Watts^{*}
Marc D. Lipman[†]

Laura L. Smith[■]
Ira E. Hoffman

Special Counsel
Philip R. Hochberg^{*}

Retired
Karl L. Ecker

Maryland and D.C. except as noted:
+ Virginia also * D.C. only
* Maryland only ■ VA only
* D.C. and VA only
† MD and VA only

Writer's Direct Dial Number:
(301) 230-5376
lgordon@srgpe.com

September 17, 2008

By Regular Mail and Email

Hon. Susan R. Hoffmann, Mayor
and City of Rockville Council Members
Rockville City Hall
111 Maryland Avenue
Rockville, Maryland 20850

Re: September 2, 2008 Mayor and Council Final Draft Zoning Ordinance

Dear Mayor Hoffmann and Council Members,

As follow-up to my September 8, 2008, email to each of you, this letter sets forth my specific issues, discussion and recommendations for further revisions to the Final Draft Ordinance.

1. Motor Vehicle Sales

- **Art. 13, pp. 10 and 13 -- Sec. 25.13.03 (Mixed Use Zones, Land Uses)**

a. Issue – New conditions of approval have been proposed for Motor Vehicle Sales conditional uses (See, Art. 13, p.13, Footnote 2)

b. Discussion – Footnote 2(a) now proposes a 50-foot setback from adjoining or abutting residentially zoned land and precludes buildings, off-street parking, loading, outdoor storage and display of motor vehicles within this setback. Footnote 2(b) precludes, among other things, motor vehicle storage in any required setback area.

Previously, the Staff Draft Ordinance addressed this issue with a condition stating, "Vehicle storage areas must be screened to 100% opacity from adjacent or confronting residential development in a residential zone." Thus, rather than a substantial setback, screening had been proposed, and such screening was only imposed upon vehicle storage. Further, the adjoining property had to be both residentially zoned and residentially developed to trigger the condition. The dual residential "zoning and development" requirement was appropriate because

owners of neighboring undeveloped land would be put on notice of dealership design prior to developing their own property. Similarly, the dual requirement would avoid restricting the dealership design if the neighboring undeveloped residentially zoned land was later rezoned to a non-residential classification, or put to a non-residential use such as a church, etc.

The new proposed conditions of approval are derived directly from Sec.59-C-4.367(a) of the Montgomery County Zoning Ordinance. However, missing from the City's proposed provisions is crucial exemption language contained in the County's Ordinance at Sec. 59-C-4.367(e). The County's exemptions generally declare pre-existing buildings to be conforming and give the Planning Board setback waiver authority. Further, under the County's Ordinance, automobile dealerships are subject to Site Plan review. Similarly, the City's proposed Ordinance will certainly trigger Site Plan approval (most likely Level 2 or 3) for motor vehicles sales uses.

c. **Recommendation**– Given the totality of these issues, I recommend that the Footnote 2 Motor Vehicle and Trailer Sales conditional uses standards to the Mixed Use Zones Land Use Table Sec. 25.13.03 be revised to include the following underscored language:

[FN] 2. Special provisions for motor vehicle and trailer sales.

- a. All buildings, off-street parking and loading areas and all outdoor storage and display must be set back 50 feet from any adjoining or abutting land that is both zoned and developed residential. However, where an opaque buffer is provided, off-street parking and loading areas, and vehicle storage and display can be placed between the buffer and the 50-foot setback. Where the Plan recommends a setback from a public street greater than the minimum required, the Plan takes precedence.
- b. The storage of waste material, auto parts, refuse and motor vehicles is prohibited in any required setback. However, motor vehicles may be stored in a setback area consistent with the opaque buffer provisions of 2(a) above.
- c. The Planning Commission shall have authority to waive the 50 foot setback requirement of 2(a) above for good cause shown.
- d. The requirement for public use space may be met in whole or in part through the fee-in-lieu process set forth in Article 17.

2. **MXCD Zone Building Height**

- Art.13, p.14 -- Sec. 25.13.05 (Mixed Use Zones, Development Standards)

- a. **Issue** – The Final Draft Ordinance caps MXCD Zone building height at an absolute maximum of 75 feet.

b. Discussion – Both the MXTD and MXE zones have been given a by-right building height of 120 feet. Further, MXTD zone building height may be increased to up to 150 feet as part of a Project Plan. While the City may not choose to increase the MXCD zone by-right height to 120 feet generally (i.e. anywhere), the Final Draft should allow for up to 120 feet on a case-by-case basis, subject to Mayor and Council approval.

The totality of this height issue cannot be resolved through the pending Rockville Pike Sector Plan. This is because many properties proposed for MXCD zoning lie beyond the boundaries of the pending Sector Plan. Thus, this issue should be addressed now in the Citywide Final Draft Zoning Ordinance.

There will certainly be MXCD-zoned properties suitable for future mixed use development which, due to land area/shape/parking needs/natural or manmade constraints and/or proposed use mix, cannot be developed reasonably or economically within a 75 foot height cap. Under such circumstances, these properties should be designated for specified additional height (not to exceed 120 feet) through a Mayor and Council-approved Sector Plan, Master Plan or Project Plan. Each of these Plans provides extensive opportunities for public review and input, thereby enabling the final maximum building height on a specific MXCD-zoned property to be fully and fairly vetted. Additionally, by providing these mixed use projects with additional building height, they will be better able to provide structured parking and increase ground level green space/open space.

c. Recommendation – Add a new Footnote to the MXCD zone 75 foot maximum height figure as follows:

Height may be increased to up to
120 feet where expressly recommended in a
Master or Sector Plan or through
Project Plan approval.

3. Conforming Status of Certain Existing Structures or Development

- Art.8, pp.8 and 9 -- Sec. 25.08.06

a. Issue – The current Mayor and Council Draft does not address gross floor area expansions of such structures or development that are greater than 5 percent but less than 50 percent.

b. Discussion – It is my understanding that the Mayor and Council intended to address this issues as follows:

	Expansion Up To 5% of Original Gross Floor Area	Expansion Between 5% and 50% of Original Gross Floor Area	Expansion Greater than 50% of Original Gross Floor Area
Original Development	Comply with pre- existing development standards	Comply with pre- existing development standards	Comply with new development standards
Expansion	Comply with pre- existing development standards	Comply with new development standards	Comply with new development standards

c. **Recommendation** – Assuming my understanding is current, insert a chart and/or clarify the text of Sec. 25.08.06 and other Sections referenced therein to more clearly reflect the Mayor and Council's intent.

By copy of this letter to Staff, I am requesting that they add these 3 matters to their Summary of Testimony List for consideration by the Mayor and Council during a future Draft Zoning Ordinance Worksession. Thank you for your attention to these issues and recommendations.

Respectfully submitted

SHULMAN, ROGERS, GANDAL,
PORDY & ECKER, P.A.

By: 
Larry A. Gordon

cc: Mr. Scott Ullery
Ms. Susan Swift
Mr. James Wasilak
Mr. Deane Mellander
Sondra Block, Esq.

Exhibit No. 108
 Zoning Ordinance Rewrite
 PH Dates: 6/16 & 6/30/08



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** All attorneys admitted in Maryland and where indicated*

August 15, 2008

Mayor and Council
 Rockville City Hall
 111 Maryland Avenue
 Rockville, MD 20850

RE: Draft Zoning Ordinance;
 Zoning Map Amendment MAP2007-00101;
 Opposition to the MXNC Zone for Blocks 2, 3, and 4 of The Park Subdivision

Dear Mayor Hoffmann and Members of the Council:

We apologize for this late submittal, but in light of the Mayor and Council's discussions at its August 4th worksession (after closing of the public record period earlier that day) regarding the MXNC zone and its impact on the property at 110 N. Washington Street, we respectfully request that the Mayor and Council also consider these additional comments regarding the proposed rezoning of Blocks 2, 3, and 4 of The Park Subdivision (highlighted in yellow on the attached tax plate map) to the MXNC zone.

A cluster of newer office buildings and office conversions are situated on these blocks, bounded by Monroe Street to the west, Route 28 / Jefferson Plaza to the north and Fleet Street to the south. Currently in the O-1 zone, this area of the City has essentially developed out as an "urban office sector" located within walking distance of Rockville City Hall, the Council Office Building, the Executive Office Building, and the Judicial Center. With the exception of the County-owned jury parking lot, the uses on these properties currently consist entirely of general/professional office uses, some that have existed in the same location and have served as thriving employment centers for over 50 years.

A rezoning of these O-1 zoned properties to the MXNC zone would constitute not only a significant down-zoning of the properties in terms of their overall development potential, but existing office uses would be negatively impacted by the fact that the "general/professional office" use category that once enjoyed "permitted use" status in the O-1 zone would unjustifiably become a "conditional use" that is "limited to no more than 4,000 square feet per tenant" in the MXNC zone. (Section 25.13.03). Although the general grandfathering provisions expected to be incorporated into the new Zoning Ordinance would allow for existing offices uses/tenants to remain as conforming uses, it would

nonetheless severely restrict a grandfathered office tenant's ability to expand their operations. The property owners would not be able to lease additional space or construct even a reasonable sized addition to an existing building if it is for the purpose of accommodating a grandfathered office tenant that already exceeds the 4,000 square foot conditional use limitation; thereby, potentially forcing long-term office tenants to relocate.

In reviewing the proposed Zoning Map Amendment, it is apparent that the MXNC zone has been generally applied to properties that confront the higher density Town Center and Metro Station areas of the City as a "step down" zone. Although we agree that reducing density and building height as you get closer to the outlying residential areas of the City constitutes good land use planning, the MXNC zone is not the only vehicle available to achieve that goal. Certainly, as discussed further below, we believe there are better ways to achieve the City's purpose in this regard. The MXNC zone was originally conceived as a zone that would encourage lower density mixed use redevelopment of older existing retail centers. The MXNC zone may make some sense on office properties currently in the TC-1 (Town Center Office) zone located on the west side of North Washington Street that are in close proximity to the higher commercial densities found in the Town Center. However, it is not at all suited for an area that has been developed solely with office uses under the City's primary urban office zone (i.e., the O-1 zone).

To address the above, we request that the Mayor and Council consider the following alternatives, listed below in the order of preference:

1. Modify the proposed Zoning Map Amendment and rezone the subject properties to the **MXB zone** instead of the MXNC zone; OR
 - a. The same "step down" affect sought by the City can be achieved on these properties by applying the MXB zone. It would reduce the potential building height on these properties to a maximum of 55 feet, a significant reduction from the 90 feet previously achievable under the O-1 for sites located within 1500 feet of a metro station, but would do so without placing unnecessary restrictions on office uses in this part of the City.
 - b. The additional height that would be afforded under the MXB zone (55 feet) than under the MXNC zone (45 feet) is compatible and not inappropriate for this area due to it being surrounded by institutional and other transitional office uses. The subject properties are separated from residential neighborhoods by existing transitional office uses on the southeast corner of Fleet Street and Monroe Street and recently redeveloped Richard Montgomery High School located further to the east. In addition, the County's Fleet Street properties located to the southwest are anticipated to be redeveloped with a multi-story senior housing project.
2. Apply a **new office mixed use zone (e.g., MXO)** at a density and building height in between that of the MXNC zone and the MXE (office park) zone with a more restricted list of permitted commercial uses than what is proposed for the MXB zone; OR
3. If the MXNC zone must be used, provide an **exception** to the "conditional use" designation and square footage restriction imposed on office uses in the MXNC zone, such that

"general/professional office" uses on MXNC zoned properties that were formerly in the City's O-1 zone are treated as unrestricted permitted uses.

a. Proposed Exception Language:

- i. Add a footnote "3" to the conditional use designation (i.e., "C") indicated for the "general/professional office" use category in the MXNC zone column of Section 25.13.03.
- ii. Possible text for footnote "3": *"Except that for properties in the MXNC zone that were previously in the City's O-1 zone prior to adoption of MAP2007-00101, general/professional office uses are permitted and the conditional use designation and related square footage limitations indicated in this Section 25.13.03 do not apply."*

Thank you for your consideration of these comments.

Sincerely yours,

MILLER, MILLER & CANBY

Jody KLINE

Jody S. Kline


Soo Lee-Cho

cc: Scott Ullery
Susan Swift
Jim Wasilak
Deane Mellander
Sondra Block, Esquire

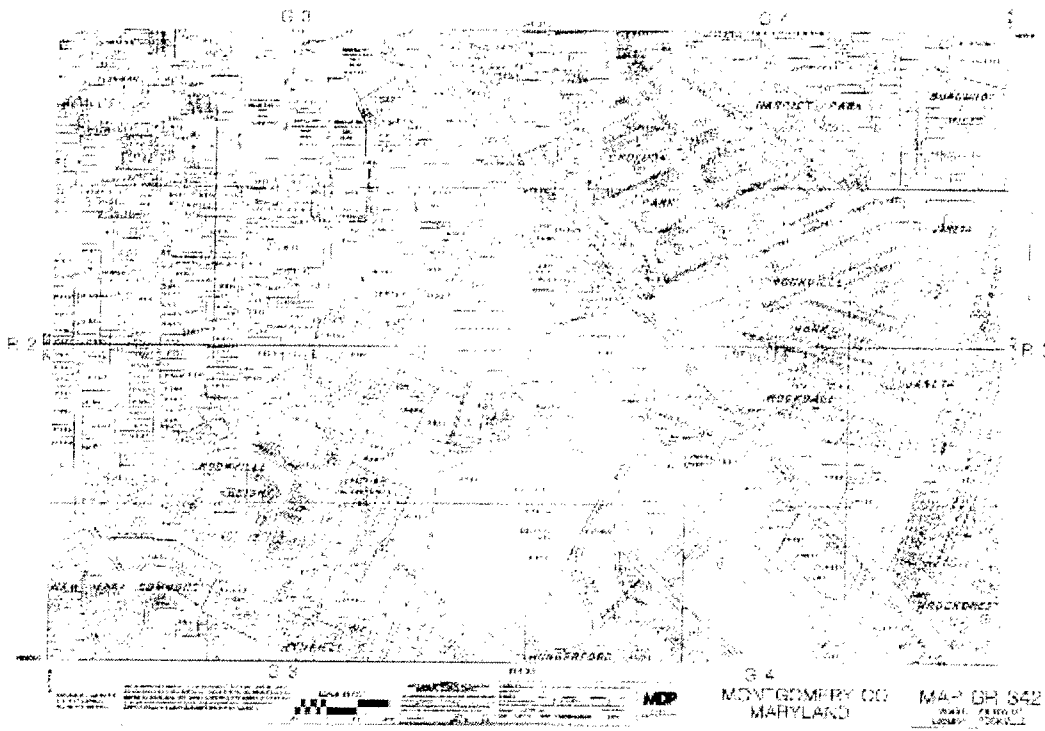




Exhibit No. 109 AttachA
Zoning Ordinance Rewrite
PH Dates: 6/16 & 6/30/08

WASHINGTON AREA NEW AUTOMOBILE DEALERS ASSOCIATION: 25

5301 Wisconsin Avenue, N.W. • Suite 210 • Washington, DC 20015
202.237.7200 Voice • 202.237.9090 Fax

Via Overnight Delivery and E-mail
September 19, 2008

The Hon. Susan R. Hoffman
Mayor of Rockville
Rockville City Hall
111 Maryland Avenue
Rockville, MD 20850

Re: City of Rockville Final Draft Zoning Ordinance
Recommended Changes to motor Vehicle Sales Use Development Standards

Dear Mayor Hoffmann:

On behalf of the Washington Area New Automobile Dealers Association (WANADA) and pursuant to our earlier communications to you over the summer, we respectfully request that the City of Rockville consider a series of important changes to the pending Final Draft of the Comprehensive Zoning Ordinance. We thank you and the Council for reopening the record on the Draft Zoning Ordinance to allow for our comments to be entered into the record on this matter.

As we stated before, our members are principally concerned that the proposed revisions to the Final Draft Zoning Ordinance do not adequately take into account the nature and limitations of the automobile business. We believe land use for dealerships requires a special focus in Rockville's zoning policy analysis, since auto dealerships differ from other businesses in many ways.

What follows are our specific concerns:

- **Grandfather Provisions for Existing Dealerships**

A strong grandfathering provision is essential to protect the investment of our members. At a minimum, we believe a proposed expansion to 5% of the existing gross floor area should be allowed before triggering application of new development standards to such expansions. As the years go by, improvements and additions will be required for existing dealerships. We suggest inclusion of the grandfathering language which clarifies the various triggering stages. At the very least, we suggest a minimum expansion trigger of 10% for auto dealerships and the grandfathering of these additions using the current standards.

- **Additional Building Height**

A key issue for our industry is the potential for vertically oriented, mixed-use redevelopment options on existing dealership locations. To date, only in extremely limited, high density areas with limited types of auto manufacturers is this form of development possible. Parking structures in new mixed-use projects are very expensive. Dealer display and service, no less than customer accommodations, require substantial

amounts of parking. As such, we support additional height to 120 feet in the MXCD zone. (Sites must be recommended by a Sector, Master Plan or Project Plan and must include a motor vehicle sales operation.)

- **Public Open Space**

We appreciate the staff responding to the safety and security concerns we identified in an earlier letter. We cannot support the creation of “public” open space in a motor vehicle operation. Open space would endanger the public, our customers, and our operations. We suggest the following amendment to the current draft:

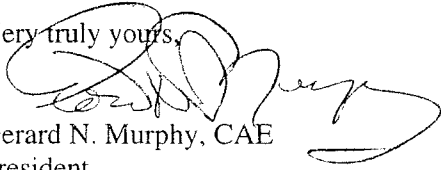
25.17.01 – Public Use Space

- a. *Purpose* – Public use space requirements are intended to promote an appropriate balance between the built environment and public parks and other open spaces intended for respite from urban development, and to protect natural features and protect and preserve the character of the City.
- b. *General Requirements* – Where provided, such space must be accessible for use and enjoyment by the general public, and may include space so located and treated as to enhance the amenity of the development by providing landscaping features, screening or a general appearance of openness. The Approving Authority may allow reasonable limitations on access to the public use space to meet safety or security concerns, *especially in a motor vehicle development.*

We at WANADA are available to work with the City of Rockville mindful of the imperative of keeping automobile sales and services an integral part of the future of Route 355. We realize the time constraints under which the City is proceeding and appreciate your attention to our concerns.

As stated earlier, you may consider the aforementioned input complementary to that of Larry Gordon, Esq. of Shulman/Rogers.

Thank you for your consideration.

Very truly yours,

Gerard N. Murphy, CAE
President

Cc: Council Member John Britton
Council Member Piotr Gajewski
Council Member Phyllis Marcuccio
Council Member Anne M. Robbins
Larry Gordon, Esq.
Scott Ullery
Sandra Block, Esq.
Susan Swift
James Wasilak
Deane Mellander
Perry Berman
Esther Gelman

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CITY PLANNING OFFICE

SEP 22 11:22 AM

Exhibit No. 110
Zoning Ordinance Rewrite
PH Dates: 6/16 & 6/30/08

AttachA

Christina Y. Ginsberg
1204 Simmons Drive
Rockville, MD 20851
Sept 22, 2008

Good evening Mayor and Council:

The recent public discourse on RORZOR and the new draft zoning ordinance has certainly been very lively over the past few weeks.

I am grateful that at least one councilmember, Mr. Gajewski, is humble enough to acknowledge that as he was not part of this process before November 2007, that there are issues that he finds require careful attention. I am also grateful that Councilwoman Marcuccio was able to commission detailed documents from the City Planning Department with regards to Woodley Gardens, the Stonestreet Market, the Burgundy Estates Shopping Center, and the Maryvale Market under the different proposed zones, both new and old.

This is the FIRST, let me repeat, FIRST time in this nearly three year process that such detailed architectural schema were produced for any of the three groups tasked with rewriting the zoning ordinance.

As one of Mr. Gajewski's "well-meaning lay people" who served on the RORZOR commission, I am delighted to finally see traffic projections for the zoning we were considering. Let's take this very practical idea a few step's further and have our Planning Department prepare some more comparison sets for real and specific properties in Rockville, so that you, the Councilmembers, as well as we the citizens, can really see what is being proposed. As a starting set, I suggest the following:

	Current Zoning	Alternatives
2000 Veirs Mill Road	C-?	C, MXT, MXC, MXNC (Plan Comm. Recommendations) MXNC (TCA Recommendations)

822 Rockville Pike	C-?	C, MXC, MXCD
1501 Rockville Pike	C-?	C, MXC, MXCD, MXTD
414 Hungerford Drive	C-?	C, MXC, MXNC, MXCD, MXTD
00079888 Washington (No street address)	?	C, MXC, MXT, MXCD, MXTD
250 N. Washington St	?	C, MXC, MXT, MXCD, MXTD

Furthermore, as I look at the architectural schema for Woodley Gardens and the Stonestreet Market, I wonder why 30o layback lines, which were designed to protect our parks and residential homes, are missing in some of the drawings, especially along the Nelson Street frontage at Woodley Gardens, as well as other possible errors. I urge you to carefully review and understand these architectural schema and all documents before errors become enshrined in the public record. Even though Woodley Gardens has been scaled back, this is only one of many parcels where such questions need to be asked.

Finally, part of the “liveliness” of the past week has been a certain disinclination on the part of some Councilmembers to yield appropriate regard to members of the community who are bringing concerns forward. “Nimby” may be a convenient libel, but when that includes the author of some of the City code, we have to question why that libel is still being applied. Our former Mayor, Larry Giammo, is circulating a document regarding Beall’s Grant II and the possible contravention of the City’s APFO. In part, this reads:

“Despite requests to the city government for evidence of this calculation, I was unable to obtain it. Therefore, the logical conclusion is that this calculation was never made. If that is indeed the case, then one could conclude that in regard to the city’s APFO and the issue of school capacity, the approval of the use permit in question did not conform with city law.”

If the AUTHOR of the city law regarding the APFO, former Mayor Giammo, holds such an opinion, perhaps we should ALL step back and review what the City is doing in its daily business of development. When MANY neighborhoods have problems with these issues, we must all be concerned for our neighbors.

August 4, 2008

Rockville City Hall
111 Maryland Avenue
Rockville, MD 20850
Attn: Mayor and City Council

RECEIVED

2008 AUG -5 AM 11:18

Routed To:

☒ Council

☒ City Clerk

☒ City Manager

☐ City Attorney

☐ Council Support Specialist

☒ Other Susan Swift

Jim Wasilak
Dean Mell

Re: Woodley Gardens Shopping Center Zoning

Good evening, Mayor Hoffmann, City Councilmembers City Staff, ladies and gentlemen. I am Drew Powell. I reside at 1035 Carnation Drive in Woodley Gardens, Rockville.

In 1984 local aspiring politician and would be murderer Ruthann Aron attempted to purchase the Woodley Gardens Shopping Center for \$1M. After defrauding her business partners, she quickly sold her rights to purchase the property to Howard W. Sharpe of P. & H. Investments of Virginia, Incorporated, which is actually based in Saint Petersburg, Florida. Mr. Sharpe or his heirs continue to maintain ownership of the property to date.

Recently large developers, which may include JBG Rosenfeld, have expressed an interest in purchasing the Woodley Gardens Shopping Center, with the potential for max-density build-out under new RORZOR zoning regulations.

The developers' plans for Woodley Gardens Shopping Center, and for that matter all the developable real estate in Rockville, is the hidden whisper of the tsunami that will forever change Rockville from our beloved hometown to a congested urban cityscape, raising taxes and lowering quality of life.

I want you to listen carefully.

[10 seconds of silence]

That was the sound of all the residents of Woodley Gardens and the surrounding area that want MXNC zoning for the Woodley Gardens Shopping Center. That was the echo of nearby homeowners, who want to stare at a 45 foot/four story structure in the middle their community of homes and parks. That was the sound of Woodley Gardens merchants, like Carmens Italian Ice, Lezzet Turkish Market and Hard Times café, who may not be able to afford higher rents. That was the muffle cry of feed-up drivers trying deal with even more congestion or trying to find a parking space in a lot unable to accommodate retail **and** two stories of condos or apartments.

In a letter dated June 30, 2008, Jim Reschovsky, President of Woodley Gardens Civic Association asked this council to consider MXC (30 ft) zoning as opposed to MXNC zoning. Under ROZOR's iron grip, residents of Woodley Gardens would not even have the chance to voice their opinions regarding a four story MXNC structure. The zoning of this property needs to fall under a neighborhood plan with inputs from residents. Not just a rubber stamp on a developer's maxed-out design.

For now this Council must zone the Woodley Gardens Shopping Center **MXC**. In the near future include the Woodley Gardens Shopping Center into a neighborhood plan that meets citizen needs.

Thank you. ■



"fredsal"
<fredsal@verizon.net>
08/04/2008 10:41 PM

To <mayorcouncil@rockvillemd.gov>
cc
bcc
Subject RORZOR

Dear Mayor Council:

Thank you for retaining the current zoning on City property. However, I was disturbed by the comments of Ms. Block to the effect that the City was not bound by its own zoning.

At the RORZOR information meetings, I specifically asked if the City would be bound by the zoning code. I was assured by Mr. Britton and Mr. Chambers that the City would be bound.

The transition zone abutting the residences on the west side of S. Washington St. has been destroyed not by developers, but by the City. Thirty years ago the City purchased the Bouic property with the stated purpose of creating a transition zone. Over the years, the park planned for S. Washington St. and Maryland Ave. became a parking lot. Later the renters of the Bouic property were kicked out to make way for City offices. Finally, Mayor Krasnow totally destroyed the transition zone by acquiescing to construction of a six story courthouse. Thus it is critical that the City abide by its own zoning and fast-track development of the West End Plan.

Sally Ann Stinner